

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2017

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THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.Nos.232 and 239 of 2017
and
Crl.M.P.Nos.2293 and 2550 of 2017

Senthil Kumar
S/o.Late Sellamuthu

... Petitioner

Vs.

1.Manonmani
W/o.S.Senthil Kumar

2.Minor Sriram
S/o.Senthil Kumar
represented by natural guardian
and next friend Manonmani

... Respondents

Criminal Revision Cases filed under Sections 397 and 401 Cr.P.C.
against the orders of learned Judicial Magistrate, Dharapuram, passed in
C.M.P.No.3628 of 2016 in M.C.No.3 of 2015 on 18.11.2016 and C.M.P.No.518
of 2016 in M.C.No.3 of 2015 on 24.09.2016.

For Petitioner : Mr.S.Ananthanarayanan, senior counsel
for Ma.P.Thangavel

For Respondents : Mr.Tamilavel

COMMON ORDER

These revisions challenge the orders of learned Judicial Magistrate, Dharapuram, passed in C.M.P.No.3628 of 2016 in M.C.No.3 of 2015 on 18.11.2016 and C.M.P.No.518 of 2016 in M.C.No.3 of 2015 on 24.09.2016, wherein distraint warrant was issued against petitioner in keeping with Section 128 Cr.P.C.

2. Heard learned senior counsel for petitioner and learned counsel for respondents.

3. Learned senior counsel for petitioner submits that petitioner has moved H.M.O.P.No.31 of 2011 on the file of learned Principal Subordinate Judge, Dharapuram, seeking divorce. First respondent/wife had moved the same Court in H.M.O.P.No.8 of 2015, seeking restitution of conjugal rights. Learned senior counsel submits that on agreement between spouses that they will reside together, H.M.O.P.No.31 of 2011 seeking divorce has been dismissed as withdrawn on 24.09.2016 and under orders of even date, petition for restitution of conjugal rights was allowed. On such very date, respondent/wife had sought and obtained orders u/s.128 Cr.P.C. Learned senior counsel also brings to notice that first respondent/wife subsequently has moved H.M.O.P.No.22 of 2017 for divorce.

4. Learned counsel for respondents submits that much was wrong with the petitioner's conduct as has been observed in the orders under challenge.

5. Learned senior counsel for petitioner submits that towards exhibiting his bonafides, petitioner was making payment of Rs.30,000/- by way of demand drafts and that given some time, he would make good the arrears of maintenance.

6. Two demand drafts bearing Nos.659771 dated 18.02.2017 in a sum of Rs.20,000/- and 659772 dated 18.02.2017 in a sum of Rs.10,000/- have been handed over by learned counsel for petitioner to learned counsel for respondents before this Court.

7. Considering the rival submissions and the facts and circumstances of the case, this Court considers it appropriate to set aside the orders under challenge subject to conditions.

Accordingly, the orders of learned Judicial Magistrate, Dharapuram, passed in C.M.P.No.3628 of 2016 in M.C.No.3 of 2015 on 18.11.2016 and C.M.P.No.518 of 2016 in M.C.No.3 of 2015 on 24.09.2016, are set aside subject to condition that petitioner shall make good the arrears of

C.T.SELVAM, J

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maintenance in a sum of Rs.65,000/- (Rupees sixty five thousand only). The present arrears of maintenance shall be paid within a period of four weeks from today, failing which these criminal revisions shall be treated as dismissed without any further reference. Connected miscellaneous petitions are closed.

21.02.2017

Note to office:**Issue order copy by 23.02.2017**

Index:yes/no

Internet:yes/no

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To

The Judicial Magistrate,
Dharapuram.

Crl.R.C.Nos.232 and 239 of 2017<http://www.judis.nic.in>