

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.377 of 2014
and
M.P.No.1 of 2014

A.Ravi Petitioner/Respondent

//vs//

1. C.Usha
2. Minor Varsha
3. Minor Nivedha
4. Minor Kumaravel
(respondents 2 to 4 are rep.
by their mother/1st respondent).... Respondents/Petitioners

For Petitioner: Mr.R.Gururaj

For Respondent: Mr.E.Durai

Prayer: Criminal Revision Petition filed under Section 397 r/w. 401 of Cr.P.C. to set aside the order passed by the District Munsif-cum-Judicial Magistrate, Neyveli, in C.M.P.No.4096 of 2013 dated 05.11.2013.

सत्यमेव जयते

ORDER

The revision petitioner is the husband of the first respondent and father of the respondents 2 to 4. Earlier, in the petition filed by the respondents under Section 125 Cr.P.C., the court below by an order dated 27.12.2010 granted maintenance at the rate of Rs.2000/-each to the respondents 2 to 3, totalling a sum of Rs.6000/-, and that order also has become final. Thereafter, to recover the arrears of Rs.2,42,000/- in payment of the maintenance, the respondents filed an application under Section 128 of Cr.P.C for attachment of the above amount from the petitioner's salary and the court below also passed an order of attachment. Thereafter, the petitioner had filed a

petition to recall the order of attachment before the court below and the court below dismissed the application. Challenging the same, the present revision has been filed.

2. Heard Mr.R.Gururaj, learned counsel appearing for the petitioner and Mr.E.Durai, learned counsel appearing for the respondents and perused the materials available on record carefully.

3. First of all, there is no provision in the Criminal Procedure Code to recall the order passed by the District Munsif-cum-Judicial Magistrate, Neyveli. Apart from that, the petitioner is working in the Neyveli Lignite Corporation and having sufficient income and the order of maintenance also become final, hence necessarily, he has to pay the maintenance. Since the petitioner deliberately avoiding the payment of maintenance, his salary has been attached.

4. In the above circumstances, I find no illegality or irregularity in the order passed by the court below and there is no merits in the revision.

5. Mr. E.Durai, learned counsel appearing for the respondents submits that now one of the respondent become major and he is not entitled for the maintenance. If so, it is always open to the petitioner to seek modification of maintenance under Section 127 Cr.P.C.

6. In the result, the Criminal Revision is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

सत्यमेव जयते

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Sub Assistant Registrar

mrp

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To

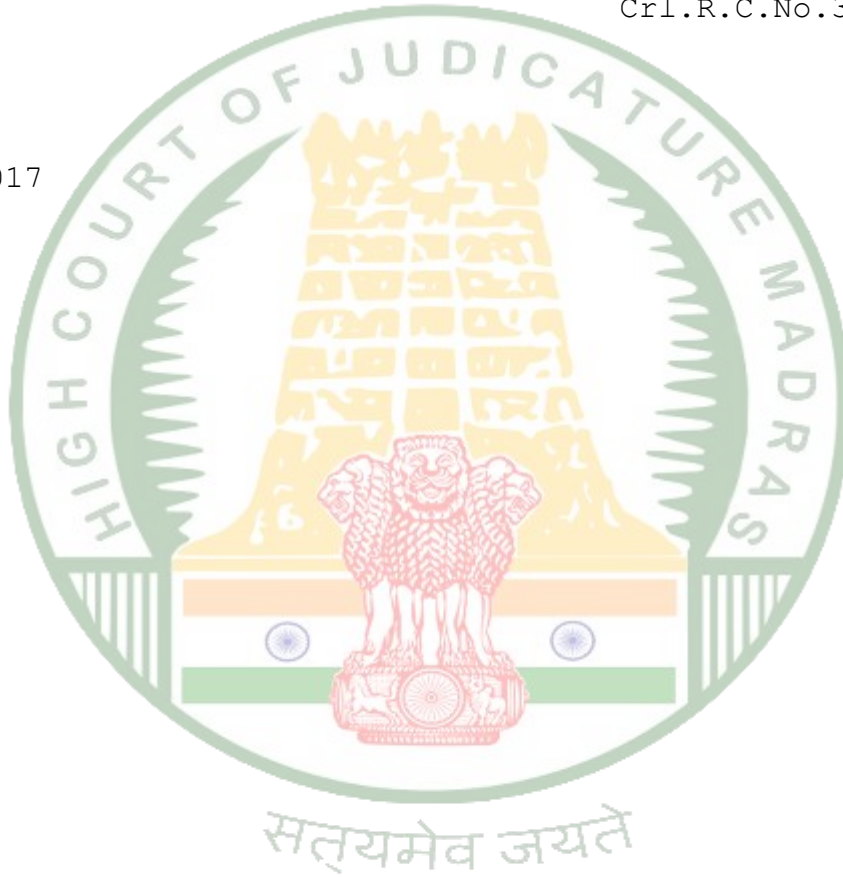
1.The District Munsif cum Judicial Magistrate,
Neyveli.

2.The Chief Judicial Magistrate
Cuddalore

+1 cc to Mr.R.Gururaj Advocate sr 21004

Crl.R.C.No.377 of 2014

gj (co)
aa15/06/2017



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