

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Cr1.R.C.No.1064 of 2015

and

M.P.No.1 of 2015

Ravi @ Karuppahiyah
S/o.Elayappa Gounder

.. Petitioner

Vs.

1.Bharathi
W/o.Ravi @ Karuppahiyah

2.Minor Dhivya @ Thilaka
D/o.Ravi @ Karuppahiyah
represented by mother/first respondent .. Respondents

Criminal Revision Case filed under Section 397 and 401 Cr.P.C. against the order of learned Judicial Magistrate I, Attur, passed in C.M.P.No.2072 of 2015 in M.C.No.10 of 2012 on 18.09.2015.

For Petitioner : Mr.L.Rajendran

For Respondents : Mr.T.Murugamanickam

O R D E R

This revision arises against the order of learned Judicial Magistrate I, Attur, passed in C.M.P.No.2072 of 2015 in M.C.No.10 of 2012 on 18.09.2015.

2. Petitioner and first respondent are husband and wife. Second respondent is their minor daughter. Respondents moved M.C.No.10 of 2012 seeking maintenance. Court below, under orders dated 16.04.2015, directed the petitioner to pay a sum of Rs.2,500/- p.m. to each of the respondents towards maintenance, totalling a sum of Rs.5,000/- p.m. As the petitioner defaulted

in payment of maintenance, respondents moved C.M.P.No.2072 of 2015 in M.C.No.10 of 2012. Court below, under orders dated 18.09.2015, issued non-bailable warrant against the petitioner and sentenced him to 1 month S.I. Aggrieved, the present revision has been filed.

3. Heard learned counsel for petitioner and learned counsel for respondents.

The Criminal Revision Case is allowed. The order of learned Judicial Magistrate I, Attur, passed in C.M.P.No.2072 of 2015 in M.C.No.10 of 2012 on 18.09.2015, is set aside. The matter is remitted back to Court below on the reasoning that Court below has proceeded to direct the arrest of the petitioner merely on finding that he has not paid the arrears of maintenance and thus, disobeyed its order. A reading of Section 125 Cr.P.C. makes clear that before directing arrest as a consequence of non-payment of maintenance, Court concerned is to satisfy itself that the person to be arrested had no sufficient cause justifying his failure to do so. Court below shall now conduct an enquiry towards satisfying itself that the petitioner had failed to effect payment of maintenance 'without sufficient cause' and thereafter, proceed to pass orders afresh on merits. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm
To
The Judicial Magistrate I,
Attur.

+lcc to Mr.T. Murugamanickam, Advocate, S.R.No.3984

+lcc to Mr.L. Rajendran, Advocate, S.R.No.4183

rsk(CO)
md(10/02/2017)

CrI.R.C.No.1064 of 2015