

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2018

Coram

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

Crl. Revision Case No.1259 of 2017
& Crl.M.P.No.12233 of 2017

P.Lavanya

... Petitioner

vs

Y.Johnson

.... Respondent

Prayer : Criminal Revision Petition filed under Section 397 read with 401 of the Code of Criminal Procedure praying to call for records in M.P.No.2049 of 2017 in DVC.No.16 of 2015 on the file of the learned XV Metropolitan Magistrate, George Town, Chennai and set aside the same.

For Petitioner : Mr.R.C.Manoharan

For respondent : Dr.G.Krishnamurthy for
Mr.J.B.Solomon Petarkamaldoss

ORDER

This revision has been filed to call for records in M.P.No.2049 of 2017 in DVC.No.16 of 2015 on the file of the learned XV Metropolitan Magistrate, George Town, Chennai and set aside the same.

2. The petitioner has filed the petition in M.P.No.2049 of 2017 in DVC.No.16 of 2015 on the file of the learned XV Metropolitan Magistrate, George Town, Chennai to initiate criminal proceedings against the respondent on account of non-compliance of the order dated 09.10.2015 in D.V.C.No.16 of 2015 to the tune of Rs.75,000/- by issuing Non-Bailable Warrant for non-compliance of maintenance order and the same was dismissed by the trial Court on 28.08.2017. Hence, the petitioner has come forward with the present criminal revision before this Court.

3. The learned counsel for the petitioner would submit that in the impugned order passed by the trial Court dated 28.08.2017, wherein it is stated that if the respondent sent to jail by way of execution of Non bailable warrant, the petitioner will not get any amount from the respondent. But trial Court issued a direction to the respondent to comply with the order awarding interim maintenance and to pay arrears of amount to the petitioner within three months from the date of order of the petition in DVC.No.16 of 2015 After the lapse of four months, till date, the respondent has not paid any amount to the petitioner. Hence, the petitioner prays for allowing this revision.

4. It is manifested from the records that the trial Court has already passed an order dated 09.10.2015 directing the respondent to pay interim maintenance of Rs.5,000/- to the petitioner every month within 10th as Monetary relief. But the respondent has not paid any amount to the petitioner. Hence, the petitioner has filed the petition in M.P.No.2049 of 2017 in DVC.No.16 of 2015 on the file of the learned XV Metropolitan Magistrate, George Town, Chennai to initiate criminal proceedings against the respondent on account of non-compliance of the order dated 09.10.2015 and the same was dismissed by the trial Court on 28.08.2017 stating that the petitioner received the monthly maintenance amount from the first respondent by signing the memo filed by the respondent. Therefore, there is non payment of arrears of interim maintenance amount. This Court has passed interim order on 09.03.2018, directing the respondent/husband to draw Demand Draft for a sum of Rs.1,50,000/- and to produce the same before this Court on 14.03.2018. Today, when the matter is taken up for hearing, the respondent has produced the Demand Draft for a sum of Rs.1,50,000/- as directed by this Court on 14.02.2018. The petitioner has already received a sum of Rs.51,500/- from the respondent and she has filed a memo of calculation before the trial Court. Therefore, the impugned order is liable to be set aside.

5. In view of the above, this Court is inclined to pass the following orders:

i) The Criminal Revision is allowed and the impugned order in M.P.No.2049 of 2017 in DVC.No.16 of 2015 on the file of the learned XV Metropolitan Magistrate, George Town, Chennai dated 28.08.2017 is set aside and the case is remanded to the said Court.

ii) The learned XV Metropolitan Magistrate, George Town, Chennai, is directed to pass appropriate orders on merits and in accordance with law, within a week from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

kkd

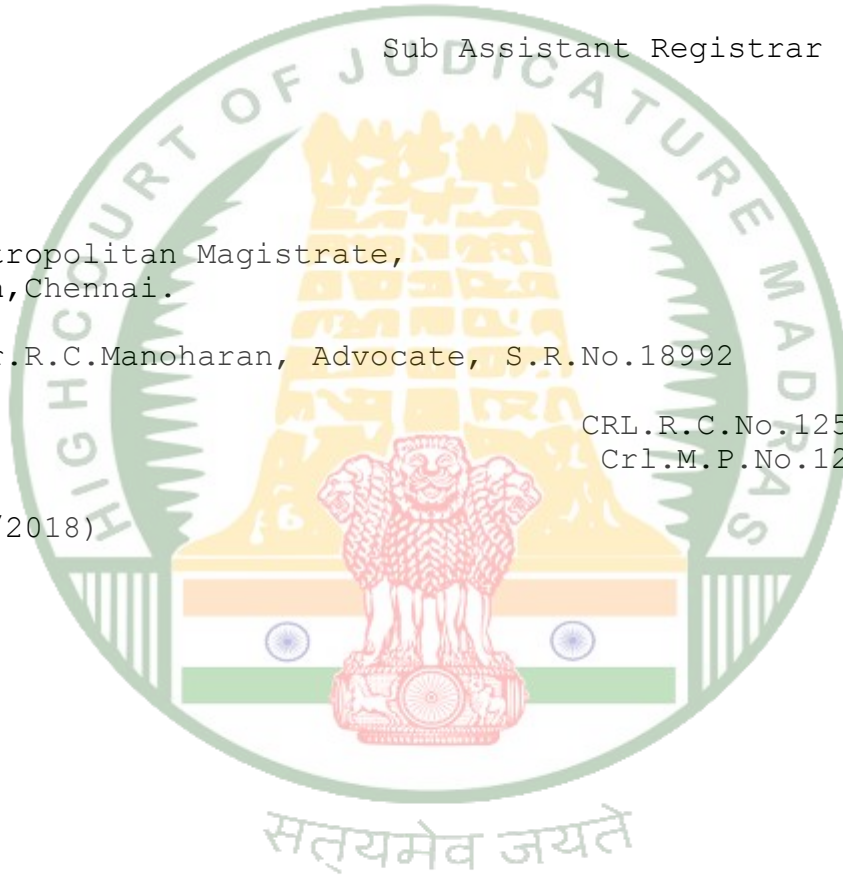
To

The XV Metropolitan Magistrate,
GeorgeTown,Chennai.

+1cc to Mr.R.C.Manoharan, Advocate, S.R.No.18992

CRL.R.C.No.1259 of 2017 &
Crl.M.P.No.12233 of 2017

RRK(15/03/2018)



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