

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

Crl.R.C.No.185 of 2018

Yasin Basha

.. Petitioner

/versus/

1.Abdul Arshad
2.Aaliya Tahseen
(1 and 2 rep.by their
mother Ayesha Begum)

.. Respondents

Criminal Revision Case has been filed under Sections 397 r/w 401 of Cr.P.C praying to set aside the impugned order made on 29.11.2017 in M.P.No.364/2017 in M.C.No.177/2017 on the file of the V Additional Family Court Judge at Chennai.

For Petitioner : Ms.R.K.Sekina Reshma

For Respondents : Mr.A.Mohan

ORDER

This Criminal Revision Case has been filed praying to set aside the impugned order made on 29.11.2017 in M.P.No.364/2017 in M.C.No.177/2017 on the file of the V Additional Family Court Judge at Chennai.

2. Brief facts of the case are that the marriage between the revision petitioner and the mother of the respondents 1 and 2, namely Ayesha Begum took place on 05.10.2008, out of which, the respondents 1 and 2 were born. Due

to misunderstanding, the respondents' mother left her matrimonial home and subsequently, the petitioner issued notices to the respondents' mother through his counsel for restitution of conjugal rights. On 06.02.2013, the petitioner had preferred a complaint to the Chief Minister's Cell against the respondents' mother for torture and misunderstanding. In reply, the respondents' mother stated that she has filed a petition before the Family Court. Subsequently, she filed a complaint against the petitioner before the police alleging demanding of dowry.

3. In the year 2013, the respondents' mother has filed a petition for divorce. Then she obtained Khula from the revision petitioner in the year 2014 and she entered into a second marriage with one Abuthahir and again she obtained Khula from him in the year 2015. In the meantime, she withdrew the case of divorce in the year 2017. She filed a petition under Section 125 of Cr.P.C., in M.C.No.177 of 2017 on the file of the V Additional Family Court at Chennai. Pending petition, the respondents' mother preferred a petition in M.P.No.364 of 2017 for interim maintenance on behalf of respondents 1 and 2. After hearing both sides, the learned V Additional Family Judge has ordered an interim maintenance of Rs.12,000/- per month (i.e Rs.6,000/- + Rs.6,000/-) to the respondents from the date of that petition and payable on or before 5th day of every English Calendar month, against which, the present revision petition has been filed by the petitioner. Pending the revision, the petitioner has filed a petition in Crl.M.P.No.4266 of 2018 seeking interim stay, in which this Court has directed the petitioner to deposit a sum of Rs.4,000/- p.m., each to the

respondents to the credit of M.C.No.177 of 2017 on the file of the V Additional Family Court, Chennai. Even thereafter, the petitioner has deposited only Rs.56,000/- as against Rs.1,36,000/- towards arrears of maintenance. Aggrieved by the non compliance, the respondents filed a vacate stay petition.

4. The learned counsel appearing for the petitioner submitted that this Court has directed the petitioner to pay a sum of Rs.4,000/- each to the respondents with entire arrears. Further, the petitioner is working as Helper in the Foodstall and since he is taking home income Rs.6,000/- only, he could not comply with the condition. However, that order has not been complied with by the petitioner.

5. The learned counsel appearing for the respondents would submit that in the year 2014, the petitioner contracted a second marriage with one Samsath and he stopped giving money for her basic amenities and that of her children, who are the respondents herein, as a result of which, she is not interested to live with the petitioner. The wife gave a Kulla (divorce) in the year 2014 and dissolved the matrimonial relationship with the petitioner herein. Hence, the respondents prayed to vacate the interim order.

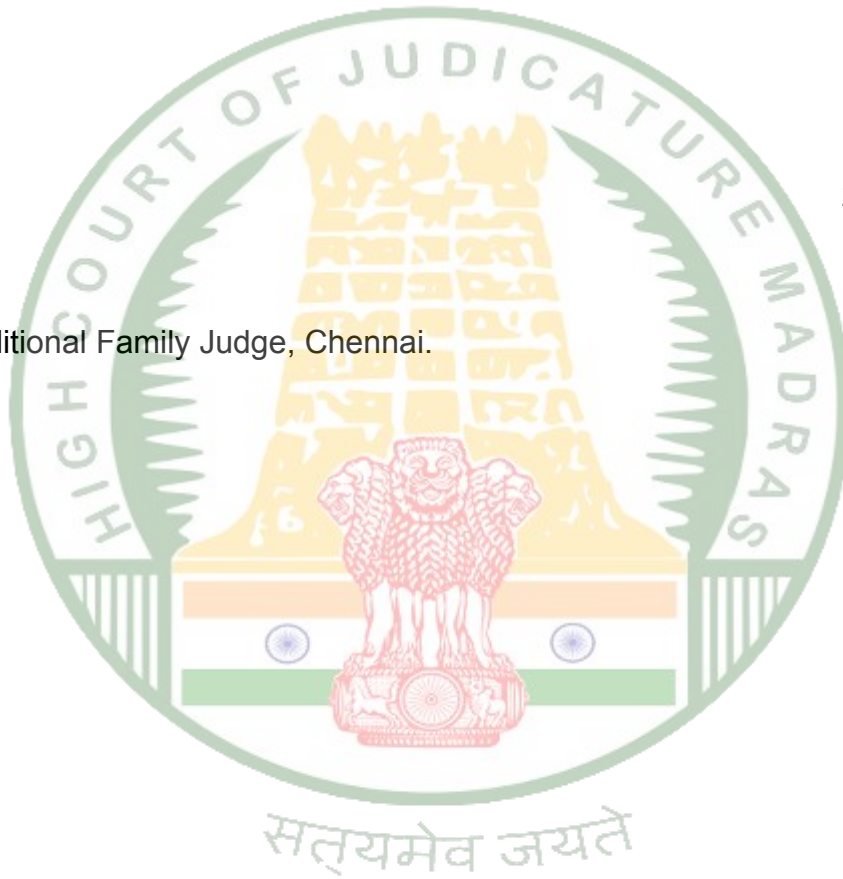
6. Considering the facts and circumstances of the case and considering the fact that the petitioner is not complying with the conditional order of this Court dated 20.03.2018, in view of the economic situation and as it is very meager amount to pay as maintenance to the respondents, who are the children

of the petitioner, I do not find any error in the impugned order passed by the lower Court in M.P.No.364 of 2017 in M.C.No.177 of 2017. Hence, this Criminal Revision Case is dismissed, confirming the order of the lower court. Consequently, connected Miscellaneous Petitions are closed.

29.10.2018

To

The V Additional Family Judge, Chennai.



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M.DHANDAPANI, J.

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