

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2018

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.R.C.No.106 of 2013

and

M.P.No.1 of 2013

Periyasamy

...Petitioner/Respondent

Vs

Shenbagavalli

...Respondent/Petitioner

PRAYER: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, to set aside the order passed in CMP No.6199/2011 in M.C.No.1 of 2005 on the file of the Principal District Munsif-cum-Judicial Magistrate, Vaniyambadi by an order dated 11.12.2012.

For Petitioner : Mr.R.Bharath Kumar

For Respondent : No Appearance

O R D E R

The revision petitioner is the husband and respondent is the wife. The wife got the order of interim maintenance in M.C.No.1/2005 and after the order, she filed CMP.No.6199/2011 for the arrears of maintenance from 23.03.2005 to 22.02.2006 for a period of 11 months, the Magistrate has passed the order and directed the petitioner to pay the said amount to the respondent/wife.

2.The learned counsel for the petitioner would submit that the CMP is filed only in the year of 2011 to enforce the order dated 19.01.2009 for a collection of arrears of Rs.16,500/- for a period of 23.03.2005 to 22.02.2006 (11 months) which is barred by limitation. As per proviso to Section 125 (3) within one year they have to file the petition. Whereas, this application is filed in the year 2011, therefore it is barred by limitation. The Magistrate has quoted the Section 128, therefore, the Magistrate passed the order. Admittedly, the revision petitioner is paying the interim maintenance for

subsequent months.

3.Considering the nature of the case, the wife has filed the petition under Section 128 Cr.P.C., in the interest of justice. The revision is liable to be dismissed.

4.Hence, revision petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

AT

To

1. The Principal District Munsif-cum-Judicial Magistrate,
Vaniyambadi

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.58382

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CA(CO)
CS/03/12/18



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