

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.10.2018

Coram:

The Honourable Mr.Justice M.DHANDAPANI

Crl.R.C.No.898 of 2017

and

Crl.M.P.No.8402 of 2017

1.Mahalingam

2.Govindasamy

3.Kamalam

.. Petitioners

/versus/

1.Neelavathi

2.Sabitha

3.Minor Priyadarshini

D/o Mahalingam

Rep.by mother and guardian Neelavathi

.. Respondents

Criminal Revision Case has been filed under Section 397 r/w 401 of Code of Criminal Procedure, 1973 praying to allow the criminal revision petition and set aside the order passed in Tr.Crl.M.P.No.507 of 2017, dated 05.06.2017 on the file of the Principal Sessions Court, Erode.

For Petitioners

:Mr.K.Soundararajan

For Respondents

:Mr.SP.Yuvaraj for R1 to R3

ORDER

Criminal Revision Case has been filed praying to set aside the order passed in Tr.Crl.M.P.No.507 of 2017, dated 05.06.2017 on the file of the Principal Sessions Court, Erode.

2. The undisputed facts of the case of the petitioners as well as the respondents are as follows:

The marriage between the first petitioner and the first respondent was solemnized on 08.06.1995 and out of wedlock, they had two daughters and due to difference of opinion arose between the petitioners and the first respondent, the first respondent went to her parental home. Hence, the first petitioner herein had filed a petition in H.M.O.P.No.85 of 2015 before the Sub Court, Bhavani for restitution of conjugal rights and the same is pending. During pendency of the said HMOP, the 1st respondent had filed a petition in M.C.No.12 of 2015 before the Judicial Magistrate, Bhavani for maintenance and the same is pending before the said Court. During pendency of the said cases, the 1st respondent had also filed a petition in C.M.P.No.3306 of 2016 seeking interim maintenance and other reliefs and on 27.01.2017 the Court below has passed an order awarding a sum of Rs.5,000/- to the first respondent herein and further sum of Rs.5,000/- each to the respondents 2 and 3 and, also awarded a sum of Rs.30,000/- each to the respondents 2 and 3 under the head of Education. Aggrieved over the same, the 1st petitioner herein had filed an appeal in

C.A.No.51 of 2017 before the District and Sessions Judge, Erode and the said appeal was transferred to the Additional District Judge, Bhavani. During pendency of appeal, the petitioners herein have filed a petition in Tr.CrI.M.P.No.507 of 2017 before the District and Sessions Court, Erode and despite his submissions about the pendency of the appeal against the order passed in C.M.P.No.3306 of 2016, the petitioners herein have been pressurized by the lower Court to arrive at a settlement with the present respondents. The case was posted on 28.04.2017 with a conditional order for deposit of interim maintenance ordered in C.M.P.No.3306 of 2016, against which, the present revision has been filed by the petitioners.

3. The learned counsel appearing for the petitioners further submitted that after hearing the case, the Court below has reserved the case for orders. However, there is no interim order. Thereafter, the petitioners filed the impugned Tr.C.M.P.No.507 of 2017 before the District and Sessions Judge of Erode alleging that the learned Magistrate has directed the petitioners to settle the amount in favour of the respondents and the specific allegation averred in the affidavit in support of the case reads as follows:-

“(e)Despite my submissions about the pendency of the appeal in C.M.P.No.3306 of 2016, I have been pressurized by the Court of Judicial Magistrate, Bhavani to arrive at a settlement with the present respondents. The case is posted for 28.04.2017 with a conditional order for deposit of

interim maintenance ordered in C.M.P.No.3306 of 2016, despite the order being appealed against.

(f)Further, the present respondent has lot of relatives in the area, who make it a point to attend each and every hearing and threaten me to arrive at a settlement with the respondent.”

4. Heard both sides and perused the materials available on record.

5. On perusal of the grounds mentioned in the transfer petition, the learned Magistrate has directed the petitioners to settle the entire interim maintenance amount to the respondents. However, that order was interpreted by saying that the petitioners were directed to settle everything with the respondents. Admittedly, the interim maintenance amount was not deposited before the lower Court. The learned counsel for the petitioners has agreed to pay a sum of Rs.5,000/- as interim maintenance to the first respondent and to pay a sum of Rs.2,500/- as interim maintenance to the respondents 2 and 3 and also agreed to pay a sum of Rs.15,000/- each towards education expenses of respondents 2 and 3. Even on perusal of the grounds, the lower Court has directed the first petitioner herein to deposit the entire maintenance arrears amount to the respondents. Under such circumstances, the submission of the learned counsel that his client has been directed to settle the matter with the respondents, is unbelievable as the learned Sessions Judge has decided the issue and dismissed the petition. Even on perusal of the affidavit as well as the

impugned order passed in the Transfer Civil Miscellaneous Petition, I do not find any error in the order passed by the learned Sessions Judge and there is no acceptable reason established before this Court for transferring the case from one Court to another Court. Hence, this Court is not inclined to mechanically interfere with the order of the learned Sessions Judge. There is no merit in this civil revision case.

In fine, the this Criminal Revision Petition fails and the same is accordingly dismissed. Consequently, connected Miscellaneous Petition is closed.

03.10.2018

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To

1.The Principal Sessions Court, Erode.

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M.DHANDAPANI,J.

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