

CRL.M.P.Nos.13887 and 13888 of 2018
in CRL.R.C.No.1704 of 2011

P.N.PRAKASH, J.

In the matrimonial proceedings in M.C.No.58 of 2009 under Section 125 Cr.P.C., the II Additional Principal Judge, Family Court, Chennai, by order dated 17.09.2011, had directed Murugan to pay monthly maintenance of Rs.5,000/- to Maheshwari. Challenging the said order, Murugan filed Crl.R.C.No.1704 of 2011 before this Court. After hearing either side, this Court passed final orders on 15.07.2013 in Crl.R.C.No.1704 of 2011, the operative portion of which is as follows :

"12.On verifying the factual position of the case and arguments advanced by the learned counsels on either side and on perusing the order and decreetal order passed by the trial Court, this Court is of the view that the revision petitioner has produced the payslip as exhibit as R7, but however, no light had been thrown to prove the amount of statutory deductions and there is also no detailed discussion and findings about the net income of the revision petitioner. However, the revision petitioner had marked medical records to show that he had undergone treatment for heart ailment. Therefore, this Court reduces the monthly maintenance from Rs.5,000/- per month to Rs.3,500/- as it is found to be appropriate in the instant case. Therefore, this Court directs the revision petitioner to pay the arrears of monthly maintenance from the date of filing the maintenance case, i.e., 12.02.2009 till July 2013, within a period of three months from the date of receipt of this order, as per this Court's findings. Thereafter, the revision petitioner has to pay

the monthly maintenance of a sum of Rs.3,500/- on every succeeding English calendar month on or before the 5th of every month, by way of deposit before the trial Court or by direct payment to the respondent either by demand draft or cash."

2.The present petitions, viz. Crl.M.P.No.13886 and 13887 of 2018 have been filed by Maheshwari for a direction to Murugan to pay a sum of Rs.3,99,000/- being the arrears of maintenance and for modification of the order dated 15.07.2013 in Crl.R.C.No.1704 of 2011 respectively.

3.When these petitions came up for hearing on 23.10.2018, Mr.G.Jeremiah, learned counsel appearing for Murugan represented that after the disposal of Crl.R.C.No.1704 of 2011, the party has taken back the bundle and he has no instructions. Therefore, this Court directed the Registry to issue notice to Murugan.

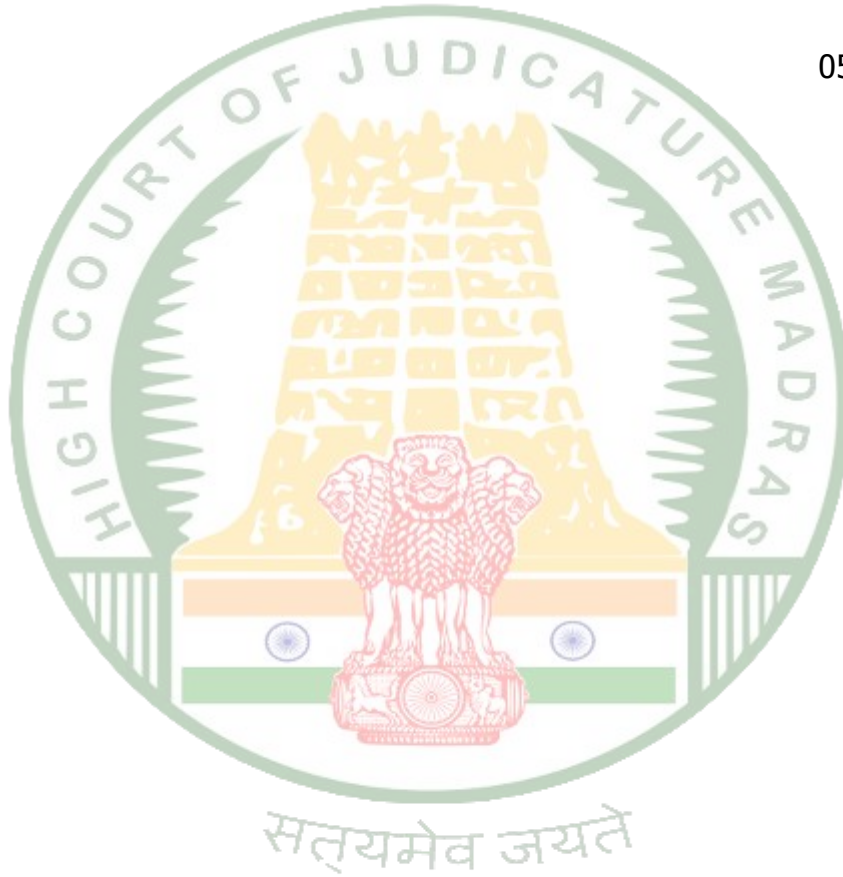
4.Today, when the matter was taken up for hearing, Mrs.Gajalakshmi Rajendran, learned counsel appearing for Maheshwari submitted that the direction as prayed for in these Miscellaneous Petitions should be issued, since Murugan has not paid any money till date.

5.In the opinion of this Court, the present petitions in Crl.M.P.No.13886 and 13887 of 2018 are not maintainable, since Crl.R.C.No.1704 of 2011 has already been disposed of finally by this Court on

15.07.2013. Of course, this Court had given three months time to Murugan to pay the arrears. However, on the failure of Murugan to pay the arrears, the remedy available to Maheshwari is under Section 125(3) Cr.P.C. and not by way of the present petition. Hence, these Miscellaneous Petitions are closed.

05.12.2018

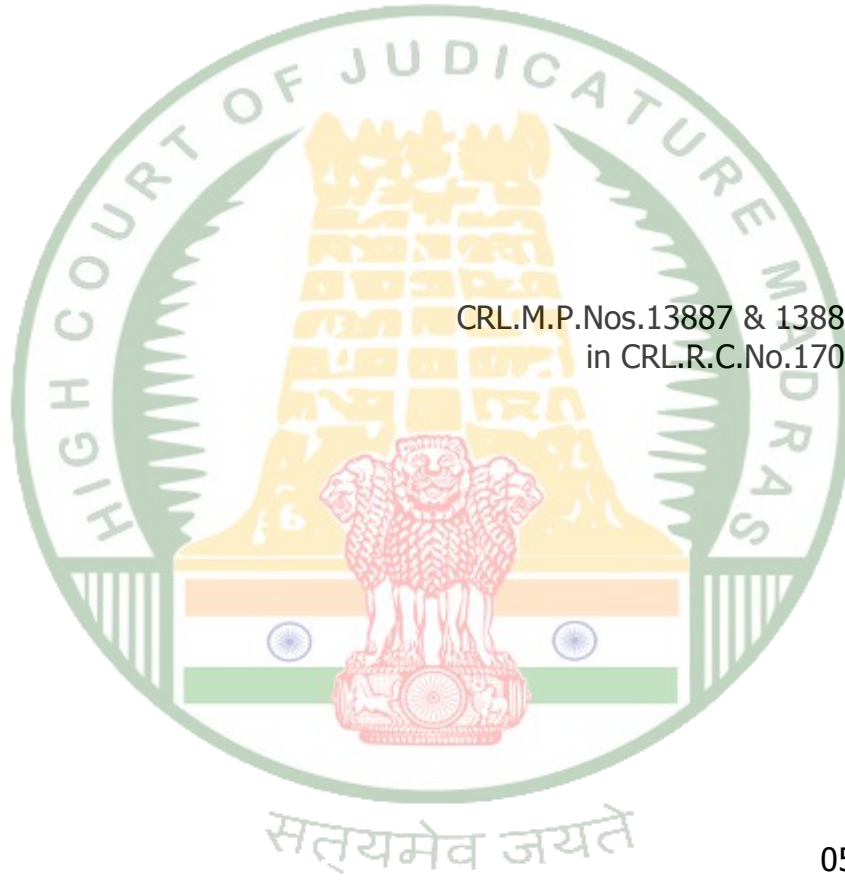
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