

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2018

CORAM :

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.O.P.No.23140 of 2018 and
Crl.M.P.No.12914 of 2018

K.Arumugam

... Petitioner

Vs

A.Vijayalakshmi

...Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records on the file of the Respondent in connection with order dated 12.06.2017 passed in C.M.P.No.2162 of 2017 in Crl.R.C.No.4 of 2017 by the Learned District and Sessions Judge, Tiruvannamalai and set aside the same.

For Petitioner : Mr.S.Ambigapathi

O R D E R

This Criminal Original Petition has been filed to call for the records in connection with the order dated 12.06.2017, passed in C.M.P.No.2162 of 2017 in Crl.R.C.No.4 of 2017, by the learned District and Sessions Judge, Tiruvannamalai and set aside the same.

2. For the sake of convenience, the parties will be referred to, by their name.

3. Arumugam got married to Vijayalakshmi on 10.11.2008 and they got estranged. Vijayalakshmi filed M.C.No.1 of 2010 under Section 125 of Criminal Procedure Code, before the Judicial Magistrate, Polur, claiming maintenance of Rs.5,000/- per month from Arumugam. Arumugam entered appearance and contested the claim. The trial Court, by an order dated 03.05.2017 in M.C.No.1 of 2010, directed Arumugam to pay Rs.5,000/- per month, as maintenance from the date of filing of the petition. Challenging the said order, Arumugam filed Crl.R.C.No.4 of 2017 before the Sessions Court, Tiruvannamalai, and in C.M.P.No.2162 of 2017 in Crl.R.C.No.4 of 2017, he sought stay of the order of the trial Court in M.C.No.1 of 2010. The Sessions Court passed a conditional order on 12.06.2017, directing Arumugam to deposit 50% of the maintenance amount, challenging which, Arumugam is before this Court.

4. Heard, Mr.S.Ambigapathi, learned counsel for the petitioner, who submitted that Vijayalakshmi did not live with Arumugam even for a day and therefore, Arumugam is not liable to pay any maintenance to her.

5. In the opinion of this Court, these disputed questions of fact cannot be gone into in this petition, since the Criminal Revision Case filed by Arumugam, is pending before the Sessions Court and it is for the Sessions Court, to go through the evidence(s) and give a finding in this regard. Sufficing to say that the Sessions Court, by the order dated 12.06.2017, has directed Arumugam to deposit only 50% of the arrears amount, which cannot be said to be unjust or illegal, warranting interference by this Court.

6. However, four weeks time is granted, from the date of receipt of a copy of this order, to comply with the order passed by the Sessions Court in C.M.P.No.2162 of 2017 in CrI.R.C.No.4 of 2017. It is seen that from 2010 to 2018, Vijayalakshmi has not seen the colour of the coin and therefore, there cannot be any further extension of time.

With these observations, this petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mkn/ssr

To

1. The District and Sessions Judge,
Tiruvannamalai.

2. The Judicial Magistrate,
Polur.

+1cc to Mr.S.Ambigapathi, Advocate Sr.67599

CrI.O.P.No.23140 of 2018 and
CrI.M.P.No.12914 of 2018

srg 15/10/2018