



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.R.C.(MD) No.119 of 2018

WEB COPY

Kandasamy

... Petitioner / Petitioner

vs.

Murugeswari

... Respondent / Respondent

PRAYER: Criminal revision filed, under Section 397 r/w 401 of Cr.P.C., to call for the records and set aside the Impugned order dated 13.10.2017 passed in Cr.M.P.No.1826 of 2017 in Unnumbered Crl.R.C.No. of 2017 by the learned Principal District and Sessions Judge, Tuticorin.

For Petitioner : Mr.R.Rajamohan
For Respondent : Ms.M.Kamalini

O R D E R

For the sake of convenience the parties herein are referred to by their name.

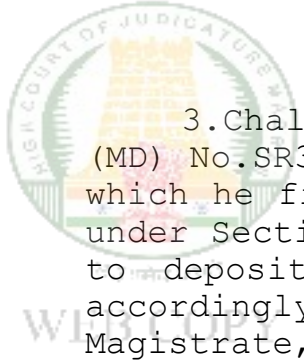
2.Kandasamy married Murugeswari on 21.06.2012 and on account of marital discord they got separated. Murugeswari filed M.C.No.12 of 2013 before the Judicial Magistrate, Vilathikulam under Section 125 Cr.P.C. against Kandasamy, claiming maintenance of Rs.5,000/- per month. The trial Court by order dated 23.01.2017 has directed Kandasamy to pay Rs.2,500/- per month as maintenance to Murugeswari. Challenging the order passed by the trial Court, Kandasamy filed Criminal Revision Case before the Principal District and Sessions Court, Tuticorin with a delay of 51 days, for which he filed Crl.M.P.No.1826 of 2017 under Section 5 of the Limitation Act for condonation of delay. The learned Principal District and Sessions Judge, Tuticorin passed the following orders on 10.10.2017 and 13.10.2017:

"10.10.2017:

Respondent is called absent and set exparte. Petition is allowed on depositing of Rs.1,500/- in the account of District Legal Services Authority for the utilization of family welfare committee as per the guidelines of Hon'ble Supreme Court in an appeal on or before 12.10.2017, failing which the petition will be dismissed. Call on 13.10.2017.

13.10.2017:

Conditional order not complied. Amount was not deposited. Petition dismissed."



3. Challenging the above said orders, Kandasamy filed Crl.R.C. (MD) No.SR3620 of 2018 before this Court with a delay of 3 days, for which he filed Crl.M.P.(MD) No.916 of 2018 for condonation of delay under Section 5 of the Limitation Act. This Court directed Kandasamy to deposit Rs.15,000/- to the credit of M.C.No.12 of 2013 and accordingly, he deposited Rs.15,000/- before the Judicial Magistrate, Vilathikulam on 20.02.2018 vide receipt No.1510325. Therefore, this Court condoned the delay of 3 days in filing the revision and the revision has been numbered as Crl.R.C.(MD) No.119 of 2018. At the time of admission of Crl.R.C.(MD) No.119 of 2018, this Court by order dated 01.03.2018 directed Kandasamy to deposit another sum of Rs.10,000/- towards the arrears of maintenance. Accordingly, Kandasamy has deposited the said sum before the trial Court vide receipt No.1510327. In view of the above, this Court is of the view that interest of justice would be served if the Criminal Revision Case is allowed and liberty is given to Kandasamy to contest before the Sessions Court.

4. Accordingly, the Criminal Revision Case is allowed and the order passed by the Principal District and Sessions Court, Tuticorin in Cr.M.P.No.1826 of 2017 is set aside and the delay of 51 days in filing the revision is also condoned and Kandasamy and Murugeswari are directed to appear before the Principal District and Sessions Judge, Tuticorin on 23.04.2018 at 10.30 a.m. The learned Principal District and Sessions Judge, Tuticorin is directed to number the Criminal Revision Case that has been filed by Kandasamy and take it on file and dispose of it on merits within 6 months from 23.04.2018. In the meantime, Kandasamy shall pay Rs.1,000/- (Rupees One Thousand only) per month as interim maintenance to Murugeswari pending disposal of the Criminal Revision Case. Further, Murugeswari is entitled to withdraw the amount deposited by Kandasamy, viz., a sum of Rs.25,000/- (Rs.15,000/- and Rs.10,000/-) from the trial Court.

Sd/-

Assistant Registrar(Crl. side)

/True Copy/

Sub Assistant Registrar

To:

1. The Principal District and Sessions Judge,
Tuticorin.
2. The Judicial Magistrate,
Vilathikulam.

+1cc to M/S.R.Rajamohan, Advocate SR.No. 55382

+1cc to M/S.M.Kamalini, Advocate SR.No. 55450

Crl.R.C. (MD) No.119 of 2018