



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 10.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE **P.N. PRAKASH**
Crl.R.C. (MD) No.24 of 2018
and
Crl.M.P. (MD) No.249 of 2018

Ali Fathima,
Represented by her brother
K.Mohammed Siddiq

: Petitioner

Vs.

Jaggir Hussain

: Respondent

PRAYER: Criminal Revision Case is filed under Sections 397 and 401 of the Criminal Procedure Code praying to set aside the order of the learned Judicial Magistrate, Uthamapalayam, in Crl.M.P.No.302 of 2006 in M.C.No.9 of 1999, dated 27.04.2006.

For Petitioner : Mr.M.S.Suresh Kumar
For Respondent : No appearance

ORDER

Ali Fathima initiated proceedings under Section 125 of the Code of Criminal Procedure before the learned Judicial Magistrate, Periyakulam in M.C.No.15 of 1994. This case was transferred to the Court of the learned Judicial Magistrate, Uthamapalayam and was re-numbered as M.C.No.9 of 1999. An *exparte* order of maintenance was passed by the learned Judicial Magistrate, Uthamapalayam in favour of Ali Fathima. On the petition filed by Jaggir Hussain, the *exparte* order was set aside. Once again, Jaggir Hussain did not appear before the Trial Court. Therefore, a second *exparte* order was passed by the learned Judicial Magistrate, Uthamapalayam in favour of Ali Fathima on 22.12.2005. Jaggir Hussain filed a petition in Crl.M.P.No.302 of 2006 in M.C.No.9 of 1999 under Section 126(2) of the Code of Criminal Procedure for setting aside the *exparte* order. The learned Judicial Magistrate, Uthamapalayam, by the impugned order dated 27.04.2006, set aside the *exparte* order dated 22.12.2005, challenging which, Ali Fathima has filed the present Criminal Revision Case.

2. The fact remains that the matter has been pending disposal from 1994 onwards and Ali Fathima has not seen the colour of coin till date. However, this Court is of the view that it will serve the interest of justice, if orders are passed by the Trial Court in M.C.No.9 of 1999 after giving full opportunities to both



parties. In such view of the matter, this is not a fit case in which the order dated 27.04.2006 passed by the learned Judicial Magistrate, Uthamapalayam requires interference by this Court.

3. In the result, this Criminal Revision Case is dismissed with a further direction to the Trial Court to dispose of M.C.No.9 of 1999, within a period of six months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate,
Uthamapalayam.

+1cc to Mr.M.S.Suresh Kumar, Advocate Sr.No.41425

SML

VB/KKR/SAR2/25/01/2018/2P/3C

Order made in
Cr1.R.C. (MD) No.24 of 2018
10.01.2018