



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE **P.N.PRAKASH**

Crl.R.C.(MD)No.31 of 2018
and
Crl.M.P.(MD)No.346 of 2018

Giftson Manova : Petitioner
Vs.

Mrs.G.Subha Jemima : Respondent

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Criminal Procedure Code praying to set aside the order made in M.C.No.33 of 2017 on the file of the Judicial Magistrate Court No.II, Sivakasi, dated 06.10.2017 and allow this revision.

For Petitioner : Mr.R.Karunanidhi

For Respondent : Mr.M.Jothi Basu

ORDER*********

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

2. Subha Jemima got married to Giftson Manova on 16.01.2012 and their marriage ran into rough weather resulting in the spouses getting estranged. Subha Jemima filed M.C.No.33 of 2017 before the learned Judicial Magistrate No.II, Sivakasi, under Section 125 of the Code of Criminal Procedure against Giftson Manova. Giftson Manova received summons from the Trial Court, but, did not appear. It is the finding of the Trial Court that Giftson Manova refused to receive the summons and, therefore, he was set *exparte* and the Trial Court, by orer dated 06.10.2017, has directed Giftson Manova to pay Rs.20,000/- per month as maintenance from the date of petition, challenging which, Giftson Manova is before this Court.

3. At the time of admission, this Court directed Giftson Manova to deposit 50% of the arrears of maintenance and accordingly, Giftson Manova has deposited Rs.50,000/- (Rupees



Fifty Thousand only), being the part arrears of maintenance, to the credit of M.C.No.33 of 2017 on the file of the learned Judicial Magistrate No.II, Sivakasi, vide receipt No.228810.

4. Heard Mr.R.Karunanidhi, learned counsel for Giftson Manova and Mr.M.Jothi Basu, learned counsel for Subha Jemima.

5. It is the case of Giftson Manova that he did not receive the summons at all and that he had not refused to receive the summons, but, whereas, the whole affair has been stage-managed to make it look as if he had refused to receive the summons.

6. Be that as it may, this Court is of the view that an opportunity should be given to Giftson Manova to defend himself.

7. The learned counsel for Subha Jemima fairly conceded the position, but, stated that Giftson Manova should be directed to pay interim maintenance pending disposal of the maintenance proceedings.

8. There appears to be much force in the submission of the learned counsel for Subha Jemima.

9. In the result, this Criminal Revision Case is allowed and the order dated 06.10.2017 made in M.C.No.33 of 2017 on the file of the learned Judicial Magistrate No.II, Sivakasi, is set aside. Both parties are directed to appear before the learned Judicial Magistrate No.II, Sivakasi, at 10.30 a.m., on 09.04.2018. On that day, Giftson Manova shall file his counter statement in M.C.No.33 of 2017. Subha Jemima will be entitled to withdraw the sum of Rs.50,000/- (Rupees Fifty Thousand only) that has been deposited vide receipt No.228810. Giftson Manova shall pay ad-interim maintenance of Rs.5,000/- (Rupees Five Thousand only) per month to Subha Jemima during the maintenance proceedings in M.C.No.33 of 2017, before the tenth of every English Calendar month, by depositing the amount to the credit of M.C.No.33 of 2017. On such deposit, Subha Jemima will be entitled to withdraw the same. The Trial Court is directed to dispose of the maintenance application expeditiously, within a period of six months from 09.04.2018, provided both the parties co-operate. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar



To

The Judicial Magistrate No.II,
Sivakasi.

+ 1 cc TO Mr.R.Karunanidhi , Advocate in SR No. 52629
+ 1 cc TO Mr.G.M.Law office , Advocate in SR No. 52687

SML

AE/SKN RSK/SAR4/09.03.2018/3P/4C

Order made in
Crl.R.C. (MD) No.31 of 2018
Dated:-02.03.2018