



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.R.C. (MD) No.76 of 2018

Jeyalakshmi @ E.Mariya Jeya ... Petitioner/Petitioner/Petitioner

vs.

A.Joseph Raj ... Respondent/Respondent/Respondent

PRAYER: Criminal revision filed, under Section 397(1) r/w 401 Cr.P.C., to call for the records pertaining to the order, dated 29.01.2018, in Cr.M.P.No.4564 of 2017 in M.C.No.25 of 2017, on the file of the learned Judicial Magistrate, Alangulam, Tirunelveli District and to set aside the same.

For Petitioner : Mr.A.Thiruvadi Kumar

O R D E R

The petitioner / wife filed M.C.No.25 of 2017, before the learned Judicial Magistrate, Alangulam, under Section 125 Cr.P.C., claiming maintenance against the respondent / husband. During the pendency of maintenance proceedings, the respondent / husband was not filing his counter and he was dragging the case. Therefore, the petitioner / wife filed Cr.M.P.No.4564 of 2017 in M.C.No.25 of 2017, under Section 125(1) Cr.P.C. seeking for interim maintenance, which has been dismissed by the Trial Court by the impugned order, dated 29.01.2018. Challenging the same, the present revision has been filed.

2. Heard Mr.A.Thiruvadi Kumar, learned counsel appearing for the petitioner.

3. Mr.A.Thiruvadi Kumar, learned counsel appearing for the petitioner / wife submitted that the application for maintenance was filed on 15.05.2017 and even after service of summons, the



respondent / husband did not choose to file his counter till 11.12.2017. Thus, the respondent / husband has been adopting dilatory tactics, which has not been appreciated by the learned Trial Judge and that the learned Trial Judge has dismissed the interim maintenance application on the ground that the main case itself could be taken up for trial.

4. This Court gave its anxious consideration to the submissions of the learned counsel for the petitioner / wife.

5. Though there appears to be sufficient force in the submissions of the learned counsel for the petitioner / wife, as a matter of expediency, this Court is of the view that if notice is ordered to the respondent / husband, it will only further add to the agony of the petitioner / wife, inasmuch as the respondent / husband will delay the proceedings in M.C.No.25 of 2017, on the ground that the present criminal revision is pending before this Court. This, in the considered opinion of this Court, will cause undue prejudice to the petitioner / wife. In such circumstances, this Court does not want to interfere with the impugned order of the Trial Court.

6. The Trial Court is directed to obtain a bond for Rs.5,000/- (Rupees five thousand only) without sureties, under Section 88 Cr.P.C., from the respondent / husband and complete the proceedings in M.C.No.25 of 2017, within a period of six months from the date of receipt of a copy of this order.

7. The criminal revision is closed with the above directions.

Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate,
Alangulam, Tirunelveli District.

+1cc to M/S.A.THIRUVADI KUMAR, Advocate SR.No.47144.