



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
Crl.R.C (MD)No.525 of 2018

WEB COPY

1.Ramalakshmi
2.Minor Sanjeeviraja : Petitioners/Petitioners
(Minor represented by her mother
and next friend is 1st Petitioner)
Vs.

R.Kulasekaran : Respondent/Respondents

PRAYER: Revision filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records and set aside the judgment of the learned District Munsif cum Judicial Magistrate, Sivagiri, Tirunelveli District in M.C.No.06 of 2015 dated 05.01.2018.

For Petitioners : Mr.G.Karuppasamy Pandiyan

For Respondent : No representation

ORDER

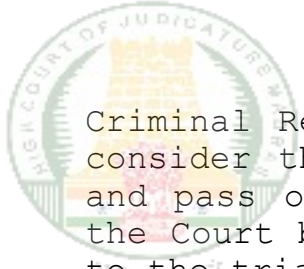
This Criminal Revision Case is filed challenging the order dated 05.01.2018, made in M.C.No.06 of 2015, on the file of the District Munsif cum Judicial Magistrate, Sivagiri, Tirunelveli District.

2.This Court, while condoning the delay of 116 days in filing Criminal Revision Case, has gone into the merits of the case and assigned the reasons as below.

"3. This Court, before condoning the delay, ventured upon the merits of the order, which is now impugned. This Court finds that the first petitioner herein married the respondent on 28.10.2012. The second petitioner was born to them. Thereafter, they got separated. The petition for maintenance is to be filed by the first petitioner for herself and on behalf of the second petitioner (minor child aged six years). The Court below has dismissed the petition based on the admission of the first petitioner that she, on her own, has deserted the respondent due to aversion on him. This Court finds no error in dismissing the maintenance claim made by the first petitioner/mother. However, in respect of the minor child, for no reason, the Court below has dismissed the claim petition. Therefore, the delay of 116 days is condoned."

<https://hcservices.ecourts.gov.in/hcservices/>

3.For the same reason, this Court is of the view that the



Criminal Revision Case has to be allowed. The Court below has to consider the claim of the second petitioner herein for maintenance and pass orders on merits. For that purpose, the order passed by the Court below is hereby set aside and the matter is remitted back to the trial Court for the said consideration.

4. With the above direction, this Criminal Revision Case is allowed.

Sd/
Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar (CS-III)

To

1. The District Munsif cum Judicial Magistrate,
Sivagiri,
Tirunelveli District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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