



BAIL SLIP

M.Kamalakannan, S/o.Nallaiah chettiar, (Sole Appellant), Male, aged about 32 years is released on bail vide the order of the Court dated 15.12.2017 made in CRL.MP(MD)No.9549/2017 in CRL.RC (MD) 795/2017

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.795 of 2017
and
Crl.R.C.(MD) No.878 of 2017
and
Crl.M.P.(MD) No.10792 of 2017

M.Kamala Kanna ... Petitioner / Respondent /
Respondent in both Crl.R.Cs.

vs.

K.Niranjana ... Respondent / Petitioner /
Petitioner in both Crl.R.Cs.

PRAYER (in Crl.R.C.(MD) No.795 of 2017): Criminal revision filed, under Section 397 r/w 401 Cr.P.C., to set aside the order dated 03.03.2017 made in Cr.M.P.No.607 of 2016 in M.C.No.296 of 2015, on the file of the Family Court, Tiruchirappalli.

PRAYER (in Crl.R.C.(MD) No.878 of 2017): Criminal revision filed, under Section 397 r/w 401 Cr.P.C., to set aside the order dated 18.03.2016 made in M.C.No.296 of 2015, on the file of the Family Court, Tiruchirappalli.

For Petitioner : Mr.N.Anandakumar
(in both Crl.R.Cs.)

For Respondent : Mr.G.Chandrasekar
(in both Crl.R.Cs.)



C O M M O N O R D E R

Niranjana got married to Kamala Kannan, a member of Armed Force, on 09.04.2014. After marriage, Kamala Kannan was posted in Punjab. It appears that their marriage ran into rough weather resulting in Niranjana filing a petition, under Section 125 Cr.P.C., in M.C.No.296 of 2015, before the Family Court, Tiruchirappalli, seeking for maintenance from Kamala Kannan. Notice was ordered to Kamala Kannan, but, he did not appear before the Family Court. Therefore, the Family Court, Tiruchirappalli, passed an *ex parte* order, dated 18.03.2016, directing Kamala Kannan to pay a sum of Rs.10,000/- per month to Niranjana. It appears that during the pendency of the maintenance proceedings, Niranjana delivered a female child. Since Kamala Kannan did not make payment, Niranjana filed Cr.M.P.No.607 of 2016 in M.C.No.296 of 2015, before the Family Court, Tiruchirappalli, under Section 128 Cr.P.C., seeking for execution of the order of maintenance. On notice, Kamala Kannan appeared, but, since he did not pay the maintenance amount, he was remanded to custody, by order dated 03.03.2017. Challenging the *ex parte* order, dated 18.03.2016, in M.C.No.296 of 2015 and the order dated 03.03.2017 in Cr.M.P.No.607 of 2016 in M.C.No.296 of 2014, Kamala Kannan has filed the present criminal revision petitions.

2. Heard Mr.N.Anandakumar, learned counsel for Kamala Kannan and Mr.G.Chandrasekar, learned counsel for Niranjana.

3. Learned counsel for Kamala Kannan submitted that Kamala Kannan suffered depression while serving in the Army because of domestic problems and therefore, he has been discharged from the Army. The learned counsel further submitted that Kamala Kannan was remanded to custody on 03.03.2017 and released on revision bail by this Court, vide order dated 15.12.2017, in CrI.M.P.(MD) No.9549 of 2017 in CrI.R.C.(MD) No.795 of 2017, on making payment of Rs.50,000/- by way of Demand Draft bearing No.922430, dated 12.12.2017, drawn on Indian Bank, Trichy, in the name of Niranjana, towards part of the arrears of maintenance amount.

4. Learned counsel for Niranjana fairly conceded the position. However, the learned counsel submitted that a female child has been born and Niranjana is finding very difficult to maintain the child without any source of income.

5. This Court gave its anxious consideration to the rival submissions.

6. The fact remains that Kamala Kannan, being an Army Man, has served the country and perhaps because of misfortune, he had to undergo strain in the marital relationship with Niranjana. In the ~~consent order~~ ^{consent order} of this Court, a fair opportunity should be given to Kamala Kannan to contest the maintenance case filed by



Niranjana on merits.

7. In such view of the matter:

- i. Crl.R.C.(MD) No.878 of 2017 is allowed and the order, dated 18.03.2016, made in M.C.No.296 of 2015, passed by the Family Court, Tiruchirappalli, is hereby set aside.
- ii. M.C.No.296 of 2015 is remitted back to the Family Court, Tiruchirappalli, for fresh disposal in accordance with law.
- iii. Kamala Kannan and Niranjana shall appear before the Family Court, Tiruchirappalli, on 12.02.2018, at 10.30 a.m., and on that day, Kamala Kannan shall file his counter statement in M.C.No.296 of 2015.
- iv. Since the order dated 18.03.2016, made in M.C.No.296 of 2015, has been set aside, the connected Crl.R.C.(MD) No.795 of 2017 is allowed and the order, dated 03.03.2017, made in Cr.M.P.No.607 of 2016 in M.C.No.296 of 2015, on the file of the Family Court, Tiruchirappalli, is hereby set aside.
- v. Kamala Kannan shall deposit a sum of Rs.5,000/- (Rupees five thousand only) towards interim maintenance, to the credit of M.C.No.296 of 2015, on the file of the Family Court, Tiruchirappalli, on or before fifth of every English Calender Month and on such deposit, Niranjana will be entitled to withdraw the same.
- vi. The Family Court, Tiruchirappalli, is directed to complete the proceedings in M.C.No.296 of 2015, within a period of six months from the date of appearance of both the parties.
- vii. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True copy/

Sub Assistant Registrar

To:

1.The Judge,
Family Court,
Tiruchirappalli.

2.The Superintendent,
Central Prison, Trichy.



+1cc to Mr.N.ANANDAKUMAR, Advocate, SR.41659

+2cc to Mr.G.CHANDRASEKAR, Advocate, SR.41785, 41784

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