



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) .No.394 of 2016

Suresh Kumar

...Petitioner/Petitioner/
Respondent

Vs.

1. Gomathi Shankar
2. Minor Vedha Rajalakshmi
(R-2 Minor is represented by her
mother and natural guardian/ R-1)

...Respondents/Respondents/
Petitioners

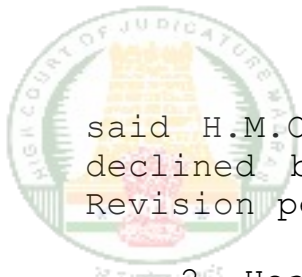
PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records pertaining to the order passed by the learned Judge, Family Court, Tirunelveli, in Cr.M.P.No.161 of 2015 in Cr.M.P.No.1494 of 2014 in M.C.No.37 of 2012 vide order and petition dated 16.11.2015 and set aside the same and further direct the learned Judge, Family Court, Tirunelveli, to adjust the amount paid by the petitioner in I.A.No.104 of 2013 in H.M.O.P.No.79 of 2012 with the balance amount to be paid in M.C.No.37 of 2012.

For Petitioner : Mr.P.Samuel Gunasingh

For Respondents: Mr.H.Arumugam

ORDER

This petition has been filed by the husband of the first respondent. The respondents herein filed M.C.No.37 of 2012 seeking payment of maintenance. In the said Maintenance proceedings, interim maintenance was awarded. The said Maintenance proceedings ended in favour of the wife. There was a parallel matrimonial proceedings pending between the parties herein in H.M.O.P.No.146 of 2014 on the file of the Family Court, Tirunelveli and H.M.O.P.No.79 of 2012 on the file of the Additional Sub Court, Tirunelveli. In the said H.M.O.P.No.79 of 2012, interim maintenance was awarded and all that the Revision petitioner wants is that payment made by him pursuant to the orders made in the



said H.M.O.P., proceedings should be adjusted. This request was declined by the Court below. Challenging the same, this Civil Revision petition has been filed.

2. Heard the learned counsel on either side.

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3. It has been held by the Hon'ble Supreme Court in **(1997) (11) S.C.C. 286 (Sudeep Chaudhary V. Radha Chaudhary)** that the sum paid as interim alimony, in terms of Section 24 of the Hindu Marriage Act, should be adjusted against the Maintenance awarded under Section 125 of Cr.P.C. The request made by the Revision petitioner ought to have been accepted by the trial Court.

4. In this view of the matter, the order passed by the learned Judge, Family Court, Tirunelveli, in Cr.M.P.No.161 of 2015 in Cr.M.P.No.1494 of 2014 in M.C.No.37 of 2012, dated 16.11.2015, is set aside. The Civil Revision petition stands allowed, accordingly. The Revision petitioner shall of course pay the balance amount, if any. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS-II)

To

1. The Judge,
Family Court,
Tirunelveli.

+ 1 CC TO MR.H.ARUMUGAM, ADVOCATE IN SR NO.81810

PMU

BU/RP/SAR-II : 27.09.2018 : 2P/3C

C.R.P. (MD) .No.394 of 2016

31.08.2018