



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

WEB COPY

Crl.R.C(MD)Nos.485 and 486 of 2018

and

Crl.M.P. (MD) Nos.5980, 5981, 6653 and 6654 of 2018

S.Saravanakumar

: Petitioner/Petitioner/
Respondent
(in Both Crl.R.Cs)

Vs.

Rani

: Respondent/Respondent/
Petitioner
(in Both Crl.R.Cs)

COMMON PRAYER in Crl.R.C(MD)Nos.485 and 486 of 2018: Revisions filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records pertaining to the conditional order in Crl.M.P.Nos.310 and 311 of 2017 respectively in M.C.No.32 of 2015 dated 01.02.2018 passed by the Family Court, Dindigul and consequential dismissal order dated 15.02.2018 and set aside the same.

COMMON PRAYER in Crl.M.P. (MD) Nos.5980 and 5981 of 2018:

Miscellaneous Petition filed under Section 5 of the Limitation Act, to condone the delay of 72 days in filing criminal revision petition against the order passed in Crl.M.P.Nos.310 and 311 of 2017 respectively, in M.C.No.32 of 2015 on the file of the Family Court, Dindigul.

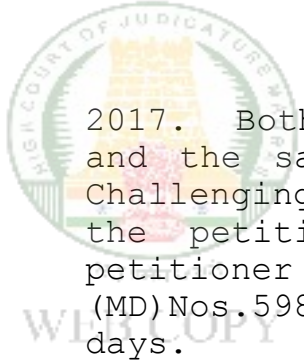
For Petitioner : Mr.R.Aravindraja
(in Both Crl.R.Cs)

For Respondent : Mr.M.Amirthalingam
(in Both Crl.R.Cs)

COMMON ORDER

Since the matter pertains to the maintenance of wife, the revisions itself are taken up along with the condone delay petitions.

2.The revision petitioner herein is the husband of the respondent. Challenging the ex parte order of maintenance, the petitioner herein has preferred application to set aside the ex parte order with a delay of 250 days. The petition, seeking to condone the delay, filed under Section 5 of the Limitation Act has been numbered as Crl.M.P.No.310 of 2017 and the petition seeking to set aside the ex parte order has been numbered as Crl.M.P.No.311 of



2017. Both the applications were heard together by the Trial Court and the same were dismissed on 03.01.2018, vide a common order. Challenging the dismissal of the condone delay petition as well as the petition to set aside the ex parte order, the revision petitioner has preferred two revision petitions along with CrI.M.P (MD) Nos. 5980 and 5981 of 2018, seeking to condone the delay of 72 days.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4. The matter relates to the maintenance sought by the wife on the ground that the revision petitioner has deserted and is not maintaining her, which is obliged to do under Section 125 Cr.P.C. Having failed to maintain her, she has sought Rs.8,500/- per month as maintenance, alleging that the revision petitioner is earning Rs.7,50,000/- per annum from his agricultural land and through finance business and land brokerage.

5. It appears that the revision petitioner has not contested the maintenance case. Therefore, he was called absent and set ex parte and the trial Court has passed an order directing the revision petitioner, to pay a sum of Rs.7,500/- per month as monthly maintenance on or before 5th of each English Calendar month, from the date of petition, i.e., 28.09.2015, with a cost of Rs.2,000/-. This order was passed on 02.11.2016.

6. After this order, the respondent/wife filed a petition to execute the maintenance order. Thereafter, the petitioner herein has filed an application under Section 5 to condone the delay of 250 days in filing a petition to set aside the ex parte order and also filed an application under Section 126(2) Cr.P.C., to set aside the ex parte order. The trial Court, after hearing the parties, directed the revision petitioner to deposit 1/3 of the total arrears amount on or before 14.02.2018, failing which, these petitions shall stand dismissed.

7. Since the revision petitioner failed to comply with the conditions, as a consequence, these petitions got dismissed. Aggrieved by this order, the petitioner has preferred revisions before this court with a delay of 72 days. This Court, while considering the condone delay applications, indicated that if the petitioner is ready to pay the substantial amount towards arrears of interest, opportunity to contest the cases on merit, by condoning the delay, will be granted.

8. The learned counsel for the petitioner offers to pay a sum of Rs.1,00,000/- to the respondent and continue to pay Rs.4,000/- per month till the final disposal of the M.C.No.32 of 2015. Taking note of his undertaking, this Court is of the view that instead of keeping the matter pending, the delay of 72 days in filing the revisions shall be condoned on condition.



9. Considering the nature of the case and submission made by the parties in the main revisions itself, the delay of 72 days in filing a petition to set aside the common orders passed by the Trial Court in Crl.M.P.Nos.310 and 311 of 2017 are hereby condoned. Office is directed the number both the revision petitions and the Criminal Revision Cases are allowed on the following conditions:

(i) The revision petitioner shall deposit a sum of Rs.1,00,000/- on or before 15.09.2018 in M.C.No.32 of 2015 on the file of Family Court, Dindigul. The respondent herein is permitted to withdraw the amount without any petition.

(ii) The revision petitioner shall continue to pay a sum of Rs.4,000/- as interim maintenance which shall be taken into account, while the disposal of the maintenance case, whatever the trial Court fixes the maintenance in M.C.No.32 of 2015 after hearing the parties and the money, which is paid so far, will be adjusted to the maintenance amount.

10. In the result, Crl.M.P(MD)Nos.5980 and 5981 of 2018 are allowed and the Criminal Revision Cases are allowed as per the terms mentioned above. Consequently, connected Crl.M.P.(MD) Nos. 6653 and 6654 of 2018 are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The Judge, Family Court, Dindigul.

+1CC to Mr.M.Amirthalingam, Advocate, SR.No.79003

ORDER MADE IN
Crl.R.C(MD)Nos.485 and 486 of 2018
and
Crl.M.P.(MD) Nos.5980, 5981,
6653 and 6654 of 2018
14.08.2018

CP

ES/RP/SAR 3/10.09.2018/3P/3C