



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2018

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Cr1.R.C. (MD)No.636 of 2018

and

Cr1.M.P(MD)No.9874 of 2018

WEB COPY

Ramar

..Petitioner/Petitioner/Respondent

Vs.

1.Allimalarvili

2.Minor.Aruchandadevi

(Rep.by through his natural guardian
mother/1st respondent)

..Respondents/Petitioners/
Petitioners

PRAYER: Criminal Revision Petition is filed by the petitioner under Sections 397 and 401 of the Criminal Procedure Code, to call for the records and set aside the order passed by learned Judicial Magistrate, Sankarankovil passed in Cr.M.P.No.1141 of 2018 in M.C.No.20 of 2014, dated 06.04.2018 and pass such further or other orders.

For Petitioner : Mr.G.Thiruvavutselvan

J U D G M E N T

This Criminal Revision Petition is filed to set aside the order passed by learned Judicial Magistrate, Sankarankovil passed in Cr.M.P.No.1141 of 2018 in M.C.No.20 of 2014, dated 06.04.2018.

2.The Revision petitioner is the husband and the respondent is the wife. The respondent filed M.C.No.20 of 2014 under Section 125 Cr.P.C. before the learned Judicial Magistrate, Sankarankovil for maintenance. Since the revision petitioner is working as Scientist and he was not able to appear before the Court and therefore, an ex-parte order was passed directing the petitioner to pay a sum of Rs.40,000/- per month for maintenance to the respondent and her minor child. Thereafter, the petitioner filed an application in Cr.M.P.No.1141 of 2018 to condone the delay of 358 days in filing the application to set aside the ex-parte order. The learned Magistrate allowed the said application with a direction to the petitioner to deposit two months maintenance amount before the Court as Rs.80,000/- out of the total arrears of maintenance amount of Rs.16,40,000/-. But the petitioner has failed to pay the said amount. Thereafter, the respondent filed Cr.M.P.No. 5140 of 2018 for a direction to direct the petitioner to pay the arrears of maintenance amount of Rs.19,60,000/-. The above said petition was allowed directing the petitioner to pay the arrears of maintenance



amount of Rs.19,60,000/- to the respondent and her child, failing which, to attach his salary every month at the rate of Rs.75,000/- per month. Thereafter the petitioner has failed to pay the said arrears amount and therefore, the petitioner's salary was attached for a sum of Rs.80,000/-. After came to know about the attachment of the salary, the petitioner applied a copy application in Cr.M.P.No.1141 of 2018.

3.The learned counsel appearing for the petitioner would submit that originally, there was no delay in filing this revision, but there was a technical delay of 145 days in filing this revision. Since the Magistrate has not given an opportunity to defend his case. The respondent left the matrimonial home without any valid reason. Whether with any valid reason or without any valid reason deserted the husband voluntarily, is the matter to be decided after full pledged enquiry.

4.The revision petitioner admitted that he is scientist and also he is an employee in the Government Department and also he is getting a salary for more than Rs.1,00,000/-. The petitioner admitted that the respondent/wife is a house wife and she does not have any independent income to maintain herself. Though the order passed by the Magistrate is an ex-parte order, the amount awarded is reasonable considering the income of the revision petitioner. The award passed by the magistrate is not exorbitant. However, the order is an ex-parte order. Further, the petitioner has admitted that he is getting more than Rs.1,00,000/-. Further, in order to give an opportunity to the revision petitioner, the orders passed by the learned Magistrate in both the Cr.M.P.Nos.1141 & 5140 of 2018 are set aside.

5.In the result, the Criminal Revision Petition is allowed directing the petitioner to deposit a sum of Rs.5,00,000/- to the credit of M.C.No.20 of 2014, on the file of the learned Judicial Magistrate, Sankarankovil on or before 02.01.2018 and if the petitioner is deposited the said sum on or before 02.01.2018, the Magistrate is directed to dispose of the M.C.No.20 of 2014 within a period of three months from the date of deposit of the said amount, in accordance with law, failing which, the orders passed by the learned Magistrate in both Cr.M.P.Nos.1141 and 5140 of 2018 and M.C.No.20 of 2014 shall stand confirmed without any further reference and it is made clear no extension of time for depositing the amount shall be entertained.

Sd/-

Assistant Registrar(RTI)

/True Copy/



To

1. The Judicial Magistrate,
Sankarankovil.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
3. The Section Officer, (2 Copies)
Criminal Section Records,
Madurai Bench of Madras HighCourt, Madurai.

+1cc to Mr.G.Thiruvarutselvan, Advocate Sr.No.98154

AM

KM/BK/SAR2/21.12.2018/3P/6C

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29.11.2018