



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.06.2019
CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.18840 of 2013 and
Crl.M.P.No.1 of 2013

Mr.Siva @ Sivakumar

... Petitioner

Versus

1.Mrs.Praveena

2.S.Dikshit, aged 5 years,
Represented by his mother the
1st respondent herein.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, calling for the records relating to the order passed by the Chief Judicial Magistrate, Perambalur in M.C.No.61 of 2010 dated 31.01.2013 as confirmed by the Principal Sessions Judge, Perambalur in Crl.R.C.No.3 of 2013 dated 19.06.2013 and set aside the same.

For Petitioner : M/s.R.Rajamani

For Respondents: Mr.B.Kumarasamy

ORDER

This Criminal Original Petition has been filed to call for the records relating to the order passed by the Chief Judicial Magsistrate, Perambalur in M.C.No.61 of 2010 dated 31.01.2013 confirmed by the Principal Sessions Judge, Perambalur in Crl.R.C.No.3 of 2013 dated 19.06.2013 and set aside the same.

2.Heard both sides.

3.The petitioner's counsel chose to argue his case on only two grounds. The first ground is that the 1st respondent did not produce any sufficient material to prove the monthly income of the petitioner alleged in this case. The second ground is that the quantum of maintenance amount of Rs.6,000/- for 1st and 2nd respondent each is on the high side and it is liable to be reduced.



4.Per contra, the learned counsel for the 2nd respondent would submit that the above petition is not maintainable on the ground that already the petitioner has filed revision in Crl.R.C.No.3 of 2013 before the Principal District and Session Judge, Perambalur against the order of the learned Chief Judicial Magistrate, Perambalur in M.C.No.61 of 2010. Therefore, it would amounts to second revision and the same is not maintainable in law. He would further submit that in the above case this Court by an order dated 24.07.2013 granted interim stay subject to the condition that the petitioner shall deposit 50% of the arrears of maintenance amount to the credit of M.C.NO.61 of 2010 on the file of the Chief Judicial Magistrate, Perambalur and on paying maintenance of Rs.3,000/- per month to each of the respondents in every month, failing which the order of Interim stay shall stand vacated automatically.

5.Though the petitioner had given an undertaking before this Court on 24.07.2013, till date he did not pay a single pie. The petitioner is due of maintenance amount of the respondents to the tune of Rs.9,33,000/- (Rupees nine lakhs thirty three thousand only), for which the respondents initiated an Execution Petition.

6.It is seen that though the petitioner had given an undertaking to pay the monthly maintenance, he has not paid any such amount as on date and the same is not disputed by the learned counsel for the petitioner. Further, the points raised by the learned counsel for the petitioner are factual aspects, which could not be entertained in this case.

7.Hence, this Court finds that this petition is not maintainable, since this Criminal Original Petition amounts to second revision, which is not permissible in law. Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Sessions and Sessions Court,
Perambalur.

2.The Chief Judicial Magistrate Court,
Perambalur.

+lcc to Mr.B.Kumarasamy, Advocate sr.51111

CRL.O.P.No.18840 of 2013

sj (co)
nr 24/09/2019