

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Orders Reserved on : 14.09.2018
Orders Pronounced on: 23.01.2019

CORAM
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.RC.Nos.275 and 276 of 2011
and
Crl.MP.Nos.1,1 of 2011

M. Saravanan ..Petitioner(in both Crl.RC's)/
Respondent

Versus

1.Kalpana
2.Minor. Kiran Sara ..Respondents(in both Crl.RC's)/
(Rep.by Mother and Guardian Kalpana) Petitioners.

Prayer in Crl Rc. No. 275 of 2011: Criminal Revision Case is filed under Section 397 r/w 401 of Cr.P.C, to set aside the order passed by the Judicial Magistrate, Bhavani in C.M.P.No.4912 of 2010 in M.C.No.12 of 2009 on 12.01.2011.
Prayer in Crl Rc. No. 276 of 2011: Criminal Revision Case is filed under Section 397 r/w 401 of Cr.P.C, to set aside the order passed by the Judicial Magistrate, Bhavani, Erode District in C.M.P.No.12034 of 2010 in M.C.No.12 of 2009 on 12.01.2011.

For Petitioner : Mr.K.S.Kumar
(in both case)

For Respondents : No Appearance
(in both case)

COMMON ORDER

These two Criminal revision petitions have been filed to set aside the order dated 12.01.2011 passed by the Judicial Magistrate, Bhavani in C.M.P.Nos.4912 & 12034 of 2010 in M.C.No.12 of 2009.

2. The petitioner herein is husband and the first respondent is wife and the second respondent is child of the petitioner.

3. Earlier, the respondent/wife has filed a Maintenance petition against the petitioner/husband herein claiming maintenance amount on the file of the Judicial Magistrate, Bhavani in M.C.No.12 of 2009. The petitioner/husband had failed to appear before the Trial Court, hence the said Maintenance case has become an ex-parte and it was allowed on 17.07.2009.

4. Thus, the petitioner filed two petitions in Crl.M.P.No.4912 of 2010 to condone the delay of 171 days in filing the petition and another in Crl.M.P.No.12034 of 2010 on the file of the Judicial Magistrate, Bhavani to set aside the ex-parte order passed in M.C.No.12 of 2009 dated 17.07.2009, which was dismissed by the Court below. Hence, the present Criminal Revision Cases has been filed.

5. Mr.K.S.Kumar, the learned counsel appearing for the petitioner would contend that the relationship between the parties are not disputed. According, to the petitioner/husband, was bedridden and suffering from Viral fever, he could not meet his counsel to prepare his counter on 28.08.2009 as directed in the said M.C. Hence, the Court below has directed the petitioner/ husband to pay a sum of Rs.18,000/- per month as maintenance amount to the respondents herein to the credit of M.C.No.12 of 2009.

6. Heard the learned counsel appearing for the petitioner and none appearing on behalf of the respondents.

7. Taking into consideration of the above facts that there was no amount has been paid as maintenance to the respondents and no opportunity has been given to the petitioner/husband to defend his case. In the interest of justice, this Court is inclined to allow both the CMP's and the order passed by the Judicial Magistrate, Bhavani is hereby set aside, subject to the condition that the petitioner/husband herein has to deposit a sum of Rs.2,00,000/-(Two Lakhs only) to the credit of MC.No.12 of 2009, within a period of eight weeks from today, failing which, this order shall stand dismissed automatically without further reference to this Court.

8. Accordingly, these Civil Revision petitions are disposed of to the extent as indicated above. Consequently, connected miscellaneous petitions are closed.

9. Registry is directed to issue a copy of this order to the Magistrate concerned within a period of two weeks and also send back the records to the Judicial Magistrate concerned, within a period of six weeks thereof.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

smn

To.

The Judicial Magistrate,
Bhavani.

Copy To:

The Record Clerk/Section Officer,
Criminal Section,
High Court,
Madras.

Crl.RC.Nos.275 and 276 of 2011

CA(CO)

rrs 28/02/2019



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