

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

CRL.R.C.NO.243 OF 2018

AND

CRL.M.P.NO.2497 OF 2018

Prasad @ Srinivasan Prasad  
@ Prasad Srinivasan

... Petitioner

vs.

1.Kiranmai @ Parthasarathy Kiranmai @  
Parathasarathy Kiranmai  
2.Minor Harshini  
3.Minor Prithviraj  
Minors represented by their  
mother and natural guardian  
Kiranmai @ Parthasarathy Kiranmai  
@Parathasarathy Kiranmai

... Respondents

Petition filed under Section 397 r/w 401 of Cr.P.C. Read with Section 19(4) of Family Courts Act, 1984, to set aside the order passed in M.P.No.283 of 2016 in M.C.No.150 of 2013, Passed by III Additional Principal Judge, FAC to II Additional Principal Judge, dated 11.1.2018. with regard to deposit of amount of Rs.5,00,000/- (Rupees Five Lakhs) only and call for the records.

For Petitioner : Mr.K.Pattabhi

For Respondents : \* **Mr.Arumugam for**  
Ms.N.Alamelu Mangai

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O R D E R

The present criminal revision case has been filed against the order, dated 11.01.2018, passed by the II Additional Family Court, Chennai, in M.P.No.283 of 2016 in M.C.No.150 of 2013, in allowing the petition filed by the petitioner herein seeking to set aside the ex-parte order, with a condition to pay arrears of interim maintenance of Rs.5,00,000/- to the respondents.

2. According to the revision petitioner there was no proper service of notice or summons to him and the matter was decided in his absence and the Family Court has granted a huge monthly maintenance of Rs.1,50,000/- to the respondents. The petitioner has come to know of the above grant of such huge amount only when the same was sought to be enforced in 2016 and thereafter he had taken steps to file a petition to set aside the ex-parte order with an application to condone the delay of 948 days.

3. The Family Court has allowed the condone delay application on condition of payment of Rs.1,00,000/- to the first respondent/wife. However, when the ex-parte application was allowed, a further condition was imposed for payment of Rs.5 lakhs towards arrears of maintenance. Aggrieved by the said condition, the present revision case has been filed.

4. The learned counsel for the petitioner would submit that the order imposing such onerous condition of payment of Rs.5 lakhs is contrary to Section 126 of the Code of Criminal Procedure, since the lower Court had not given any finding regarding the reasons for non-service of notice to the petitioner herein. Therefore, the learned counsel would submit that the order passed by the Family Court is liable to be set aside.

5. Be that as it may. During one of the hearings of the present revision case, the petitioner was directed to make a part payment towards arrears of maintenance and in response to the direction, Rs.2,00,000/- has been paid and the said fact has also been acknowledged by the first respondent/wife. While so, when considering the present objection by the petitioner herein regarding the condition imposed by the Court below directing him to pay Rs.5 lakhs, as already stated above, Rs.2 lakhs has been paid and only remaining Rs.3 lakhs is required to be paid. In order to find a via media solution, this Court has suggested payment of Rs.1 lakh additionally to the respondents instead of remaining Rs.3 lakhs and the learned counsel for the respondents has readily agreed for receiving the payment of Rs.1 lakh. At this stage, the learned counsel for the petitioner would submit that the petitioner requires at least two weeks' time to make the said payment and on such payment being made, the order passed by the Family Court may be modified accordingly.

6. In view of the above development, this Court directs the petitioner/husband to pay a sum of Rs.1 lakh (Rupees one lakh only) to the respondents within a period of two weeks from the date of receipt of a copy of this order, by issuing a Demand Draft in favour of the first respondent/wife. On such payment being made, the impugned order passed by the Family Court shall

stand modified to that extent and the Family Court is directed to dispose of the main case within a period of six months from the date of receipt of copy of this order.

The Criminal Revision Case is ordered accordingly.  
Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

22.02.2019

**\* Amended as per the Letter dated 22.04.2019**

Sd/-

Assistant Registrar(CO)

13.09.2019

//True Copy//

Sub Assistant Registrar

To

1. The III Additional Principal Judge,  
FAC No.II Additional Principal Judge,  
Chennai.

Copy To

The Section Officer,  
Criminal Section,  
High Court, Madras.

**To be Substituted  
the Order already  
Despatched on  
20.03.2019**

+2cc to Mr.K.Pattabhi, Advocate, S.R.No.8731

Cr1.R.C.No.243 of 2018

SSI(CO)

GSP(26/02/2019)

CS/16/09/2019

सत्यमेव जयते

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