

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6394 of 2019

Gopi Kuppuraj, ... Petitioner / Respondent

Vs.

Uma ... Respondent / Petitioner

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order passed by learned Judicial Magistrate, Paapireddipatti in Crl.M.P.No.1712 of 2018 dated 21.01.2019.

For Petitioner : Mr.V.Rajamohan

For Respondent : Mr.S.Ashok Kumar.

O R D E R

This Criminal Original Petition has been filed to set aside the order dated 21.01.2019 made in Crl.M.P.No.1712 of 2018 by the learned Judicial Magistrate, Paapireddipatti.

2.The respondent/wife filed an application seeking maintenance before the learned Judicial Magistrate, Paapireddipatti in M.C.No.04 of 2013, wherein the learned Judicial Magistrate, by an order dated 18.08.2018 had awarded maintenance of Rs.10,000/- to be paid to the wife by the petitioner herein within 5th day of every English Calendar month. As against the said order, the petitioner filed Crl.R.C.No.10 of 2018 before the learned Principal District and Sessions Judge, Dharmapuri, which is still pending. Pending revision, the wife/respondent filed a petition before the learned Magistrate in C.M.P.No.5292 of 2018 praying to attach the salary of the petitioner and that application is also pending.

3.The learned counsel for the petitioner submitted that subsequent to the maintenance award passed, the respondent/wife had joined as employee in Adhiparasakthi Polytechnic Educational College, Erumiyampatti Village, Paapireddipatti Taluk and was receiving a salary of Rs.30,000/- per month. Hence, the petitioner has filed an application in Crl.M.P.No.1712 of 2018

under Section 127 of CrI.P.C., praying to alter the allowance of maintenance and the same was dismissed by the learned Judicial Magistrate, Paapireddipatti. Challenging the dismissal order, the petitioner has filed the present petition.

4. Heard both sides.

5. It is seen that the petitioner had already filed a revision in CrI.R.C.No.10 of 2018 before the Principal District and Sessions Judge, Dharmapuri and the same is pending. Thereafter, the petitioner has filed an application in CrI.M.P.No.1712 of 2018 in M.C.No.04 of 2013 under Section 127 CrI.P.C., to modify the order passed in M.C.No.04 of 2013 and the same was dismissed by the learned Judicial Magistrate, Paapireddipatti, by an order dated 21.01.2019. Therefore, this Court is not inclined to entertain this petition, since a revision case in CrI.R.C.No.10 of 2018 is pending before the learned Principal District and Sessions Judge, Dharmapuri. Accordingly, the Criminal Original Petition is dismissed. However, the petitioner is at liberty to challenge the said order before the concerned District Court.

6. Registry is directed to return the original order copy to the petitioner after getting necessary certified copies and acknowledgement.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

rm

To

1. The Judicial Magistrate,
Paapireddipatti,
Dharmapuri District.
2. The Principal District and Sessions Judge,
Dharmapuri.

+1cc to Mr.S.Ashok kumar, Advocate, S.R.No.23525

+1cc to M/s.N.Mohideen Basha, Advocate, S.R.No.22346

CrI.O.P.No.6394 of 2019

RSI (CO)
SSM(02/04/2019).