

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.RC.No.314 of 2019
and
Crl.MP.No.3874 of 2019

1.Nandhini Devi

2.Minor Charunethra

Rep. by her natural guardian mother
Nandhini Devi

.. Petitioners/Respondents/
Petitioners

Vs

Yeka Yoga Parabrahmanandan
S/o. Late Venidusamy

.. Respondent/Petitioner/
Respondent

Criminal revision preferred under Section 397 read with Section 401 of Cr.P.C. seeking to stay the further proceedings in M.C.No.47/2014 on the file of the Judicial Magistrate Court No.I, Udumalpet and to set aside the order dated 14.02.2019 passed in CMP.No.5454 of 2017 in M.C.No.47 of 2014 on the file of the Judicial Magistrate Court No.I, Udumalpet.

For Petitioners : Mrs.N.Priyadharshini

For Respondent : Mr.A.Prabakaran
Senior counsel
for Mr.A.Gokulakrishnan

O R D E R

This Criminal Revision has been preferred to stay the further proceedings in M.C.No.47/2014 on the file of the Judicial Magistrate Court No.I, Udumalpet and to set aside the order dated 14.02.2019 passed in CMP.No.5454 of 2017 in M.C.No.47 of 2014 on the file of the Judicial Magistrate Court No.I, Udumalpet.

2. For the sake of convenience, the parties will be referred to by their name.

3. Nandhini Devi got married to Yeka Yoga Parabrahmanandan (for short "Yoga") on 11.09.2000 and they have a child viz., Charunethra. The couple got estranged resulting in Nandhini Devi initiating proceedings in MC.No.47 of 2014 under Section 125 Cr.P.C before the Judicial Magistrate No.I, Udumalpet. Since Yoga did not appear before the trial Court after receipt of notice, he was set ex-parte in MC.No.47 of 2014 on 01.04.2016. Yoga filed CMP.No.3453 of 2016 under Section 126 Cr.P.C. for setting aside the ex-parte order. Since there was no appearance on behalf of Nandhini Devi for several hearings, on 02.06.2016 Yoga made an endorsement in CMP.No.3453 of 2016 as not pressed and on the same day, i.e 02.06.2016, MC.No.47 of 2014 was dismissed for default by the trial Court. On coming to know of it, Nandhini Devi filed an application to set aside the order dated 02.06.2016 passed in MC.No.47 of 2014, which was allowed by the trial Court even without hearing Yoga. Therefore, MC.No.47 of 2014 got restored, however, the ex-parte order dated 01.04.2016 passed against Yoga also got restored because Yoga had withdrawn CMP.No.3453 of 2016. An ex-parte maintenance award was passed on 27.06.2017. On coming to know of these developments, Yoga filed CMP.No.5454 of 2017 in MC.No.47 of 2014 under Section 126 Cr.P.C for setting aside the ex-parte order dated 27.06.2017 passed against him, which has been allowed by the trial Court on 14.02.2019 by a well considered order. Challenging the same, Nandhini Devi has filed the present revision.

4. Heard Mrs.N.Priyadharshini, learned counsel appearing for Nandhini Devi and Mr.A.Prabakaran, learned Senior Counsel appearing for Mr.A.Gokulakrishnan, learned counsel for Yoga.

5. The fact remains that MC.No.47 of 2014 was dismissed for default for non-appearance of Nandhini Devi on 02.06.2016. That is the reason why Yoga withdrew CMP.No.3453 of 2016 on 02.06.2016. However, the trial Court had restored MC.No.47 of 2014 behind the back of Yoga, on coming to know of which, Yoga filed CMP.No.5454 of 2017 to set aside the ex-parte order that was passed against him in MC.No.47 of 2014 on 27.06.2017. On a conspectus of the facts obtaining in this case, this Court does not find any infirmity or perversity in the order dated 14.02.2019 passed by the trial Court in CMP.No.5454 of 2017 in MC.No.47 of 2014 warranting interference in this revision case. Accordingly, this Criminal Revision case fails and the same is dismissed.

6. Yoga has not disputed the paternity of his child Charunethra. Bearing this in mind, this Court is of the view that the interests of justice will be served, if Yoga is directed to pay interim maintenance. Accordingly, Yoga is directed to pay interim maintenance of Rs.5,000/- p.m.

calculated from 27.06.2017 to 27.08.2019 within a period of four weeks from the date of receipt of a copy of this order. That apart, from the month of September 2019 onwards, Yoga shall continue to pay the monthly interim maintenance of Rs.5,000/- p.m. before 10th of every English Calendar month until the disposal of MC.No.47 of 2014.

7. The trial Court is directed to complete the proceedings in MC.No.47 of 2014 within a period of three months from the date of receipt of a copy of this order, provided, there is no other legal impediment to do so. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

mk

To

- 1) The Judicial Magistrate No.I,
Udumalpet.
- 2) - do - through The Chief Judicial Magistrate,
Tiruppur.

+1 cc to Mr.A.Gokulakrishnan, Advocate, S.R.No.70896

CRL.R.C.No.314 of 2019

VGI(CO)
SSM(16/09/2019)