

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Cr1.R.C.No.495 of 2014
and M.P.No.1 of 2014

S.Suresh

... Petitioner

Vs.

1.Pushpa

2.Nivetha (Minor)

... Respondents

Prayer: Criminal Revision Petition is filed under Section 397 and 401 of Criminal Procedure Code, to call for the records relating to passing of the order in C.M.P.No.802 of 2014 in M.C.No.12 of 2012 dated 21.04.2014 on the file of the Judicial Magistrate, Ambattur and set aside the same.

For Petitioner : Mr.U.S.Yedhindrn

For R1 and R2 : Not ready in notice

O R D E R

It is the case of Pushpa that Suresh married her and she begot a child Nivitha through the wedlock. It is her further case that Suresh had failed and neglected to maintain her. Therefore, she filed M.C.No.12 of 2012 under Section 125 Cr.P.C., before the learned Judicial Magistrate, Ambattur. She also filed M.P.No.3401 of 2013 in M.C.No.12 of 2012 for interim maintenance. The learned Judicial Magistrate, Ambattur by order dated 01.10.2013 directed Suresh to pay a sum of Rs.15,000/- per month as interim maintenance. Since Suresh did not pay the amount, Pushpa filed C.M.P.No.802 of 2014 in M.P.No.3401 of 2013 under Section 128 of Cr.P.C for enforcement of the order dated 01.10.2013. The learned Judicial Magistrate, Ambattur passed the following order on 21.04.2014 in C.M.P.No.802 of 2014:

" Order dated 21.04.2014

Petitioner present Respondent absent proof affidavit filed petitioner examined as Pw-1. Petitioner side is closed. Respondent side evidence is closed since in the counter itself the respondent submitted that appeal is going to prefer. However it is said by the petitioner counsel that till date appeal not preferred this fact also admitted by the learned respondent counsel also, hence in such circumstances this court inclined for issue distress warrant to produce the respondent before this Court for payment of interim maintenance as per the order of the court in C.M.P.No.3401 of 2013 hence issue

warrant to the respondent of production before this Court on 08.05.2014."

2. Therefore, Suresh has filed the present Criminal Revision Petition challenging the above order. At the time of admission on 08.05.2014, this Court passed the following order:

"There shall be an order of interim stay on condition that the petitioner shall deposit a sum of Rs.25,000/- (Twenty Five Thousand only) to the credit of C.M.P.No.802 of 2014 in M.C.No.12 of 2012 on the file of the learned Judicial Magistrate, Ambattur, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the first respondent is permitted to withdraw the said amount after filing memo before the trial Court."

3. Heard the learned counsel for the petitioner and perused the records.

4. The fact remains that Suresh is working as a Constable in the Police Department. That apart, the order passed by the learned Judicial Magistrate, Ambattur in C.M.P.No.3401 of 2013 is only an interim order of maintenance. Suresh has not challenged the order dated 01.10.2013 and as instead challenged the order dated 21.04.2014 passed by the learned Judicial Magistrate, Ambattur, in a proceedings under Section 128 of Cr.P.C. This Court does not find any infirmity in the order dated 21.04.2014 passed by the learned Judicial Magistrate, Ambattur in C.M.P.No.802 of 2014, warranting interference. Hence, this Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate, Ambattur.

2. -Do-Thro' The Chief Judicial Magistrate, Tiruvallur.

+1 cc to M/s.Arul Selvam, Advocate Sr.No. 76375

AKM/25.09.19/2P-4C /

Cr1.R.C.No.495 of 2014