

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.OP.No. 24026 of 2014

and

M.P.No.1 of 2014

A.S.Kannan

...Petitioner

Vs.

Malarkodi

....Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order dated 19.03.2014 passed in Cr.R.C.No.35 of 2013 on the file of the I Additional Sessions Judge, Salem and confirming the order dated 20.11.2012 passed in C.M.P.No.1004 of 2012 in M.C.No.12 of 2010 on the file of the Judicial Magistrate No.II, Mettur and consequently allow the same.

For Petitioner : Mr.R.Dhanasekar

For Respondent : Mr.M.R.Jothi Manian

ORDER

This Criminal Original Petition has been filed challenging the order passed in Cr.R.C.No.35 of 2013 confirming the order passed in C.M.P.No.1004 of 2012, wherein the petitioner was directed to pay a monthly interim maintenance of Rs.6,000/- to the respondent.

2. Heard the learned counsel for the petitioner and the counsel appearing on behalf of the respondent.

3. This Court has carefully considered the submissions made on either side and the materials placed on record. Both the Courts have concurrently held that there is no proof of illness of the petitioner and that he had not given any satisfactory explanation for not participating in the enquiry fixing interim maintenance and therefore, both the Courts were not inclined to set aside the ex-parte order. This Court does not find any illegality or infirmity in the order passed by the Courts below.

4. Admittedly, the main Maintenance Case is pending till date. In order to afford an opportunity for the petitioner to contest the main case, the petitioner is directed to pay a sum of Rs.3,50,000/- to the respondent directly as a consolidated amount in the interim maintenance petition without prejudice to his rights. This payment shall be made within a period of four weeks from the date of receipt of a copy of this order. On such payment, the Court below is directed to take up the main case and complete the proceedings in M.C.No.12 of 2010 within a period of three months from the date of receipt of a copy of this order. It is made clear that the petitioner will be permitted to contest the main case only after complying with the conditions imposed by this Court.

5. In the result, this Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mpa/uma

To

1.The I Additional Sessions Judge,
Salem.

2. The Judicial Magistrate No.II,
Mettur.

+lcc to Mr.R.Thamaraiselvan, Advocate sr.45668

+lcc to Mr.M.R.Jothi Manian, Advocate sr.45719

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ss(co)
nr 08/07/2019