

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 18.07.2019

CORAM
THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.R.C.No.670 of 2019
and
CRL.M.P.No.9305 of 2019

Arun Amalan

.. Petitioner

Vs

1.A.Santha Devi

2.A.Dev Prasad

.. Respondents

Rep. By his mother and
Natural Guardian A.Santhadevi

Criminal revision preferred under Section 397 read with 401 of Cr.P.C. to set aside the order dated 04.03.2019 made in Crl.M.P.No.4842 of 2018 in M.C.No.15 of 2015 on the file of the Judicial Magistrate Court, Ambattur.

For Petitioner : Mr.D.Ramesh Kumar

For Respondent : Mr.M.P.Saravanan for R1

R2 : No Appearance

O R D E R

This Criminal Revision has been preferred to set aside the order dated 04.03.2019 passed by the Judicial Magistrate, Ambattur in Crl.M.P.No.4842 of 2018 in M.C.No.15 of 2015.

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

3.Arun got married to Santha on 08.12.2008 and they have a son Prasad. The couple got estranged, pursuant to which, Santha filed M.C.No.15 of 2015 before the Judicial Magistrate, Ambattur under Section 125 Cr.P.C. against Arun. Arun entered appearance and filed his counter, but did not contest the case. Therefore, the learned Magistrate passed an ex parte order in M.C.No.15 of 2015 on 23.07.2018, directing Arun to pay Rs.20,000/- per month towards maintenance for Santha and her son. Arun filed C.M.P.No.4842 of 2018 in M.C.No.15 of 2015 to set aside the ex parte order. Neither Arun nor his counsel seriously prosecuted the petition and therefore, the trial Court dismissed C.M.P.No.4842 of 2018 on 04.03.2019. Challenging the said order, Arun is before this Court.

4. Heard the learned counsel for Arun and learned counsel for Santha.

5. Learned counsel for Arun submitted that during the pendency of C.M.P.No.4842 of 2018, Arun negotiated with Santha and Santha agreed to receive Rs.10,00,000/- as full and final settlement of all claims and therefore, Arun took demand drafts in the name of Santha and her son for Rs.10,00,000/- on 04.03.2019 and wanted to settle the matter finally. Therefore, he was not present before the trial Court, which had resulted in the petition getting dismissed.

6. Per contra, learned counsel for Santha submitted that from 2015 onwards, Santha has not been paid a single paise and that, she had to pay around Rs.20,000/- towards school fees for the child.

7. Taking into consideration the facts and circumstances of the case, this Court is of the view that interests of justice will be served, if an opportunity is given to Arun to contest the maintenance case on certain conditions :

- i. Arun shall deposit a sum of Rs.1,00,000/- towards arrears of maintenance and costs within four weeks from the date of receipt of a copy of this order before the trial Court. He shall also deposit Rs.20,000/- towards the school fees for the academic year 2019-20 within the said period. Santha will be entitled to withdraw the entire sum of Rs.1,20,000/-. On such deposit, the order dated 23.07.2018 in M.C.No.15 of 2015 and the order dated 04.03.2019 in C.M.P.No.4842 of 2018 passed by the trial Court will stand set aside.
- ii. Arun shall pay interim maintenance of Rs.10,000/- from August 2019 pending disposal of M.C.No.15 of 2015 by depositing the same before the trial Court before the 10th of every English calendar month. On such deposit, Santha will be entitled to withdraw the same.
- iii. After deposit, Arun and Santha shall appear before the trial Court on 05.08.2019.

This criminal revision stands ordered in the above terms. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gya

To

1.The Judicial Magistrate,
Ambattur.

2.The Public Prosecutor,
High Court, Madras.

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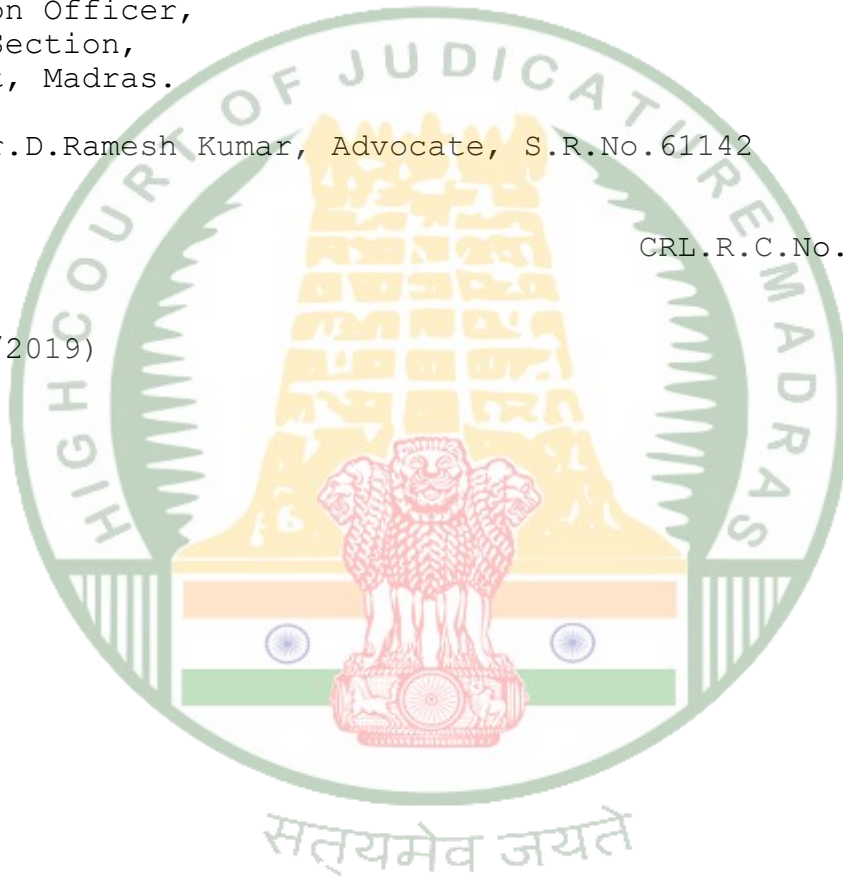
The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.D.Ramesh Kumar, Advocate, S.R.No.61142

CRL.R.C.No.670 of 2019

PM(CO)

RRS (19/07/2019)



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