

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2019

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

Crl.OP No.24678 of 2019
and
Crl.M.P.No.13136 of 2019

A.Balakrishnan ..Petitioner / Respondent

Vs.

N.Sujatha ..Respondent / Petitioner

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the entire records in Crl. Revision Case No.9 of 2018 against MC.No.30 of 2015, on the file of the learned Principal Sessions Judge, Krishnagiri and to set aside the same and consequently to dismiss the M.C.No.30 of 2015 filed by the respondent.

For Petitioner :Mr.M.Mohanraj
for Mr.D.Senthil Kumar

For Respondent :Mr.N.Muthukrishnan

O R D E R

By an order dated 22.06.2018, the learned Chief Judicial Magistrate, Krishnagiri, had directed the petitioner herein to pay a sum of Rs.6000/- as maintenance under Section 125 Cr.P.C., to the respondent herein, which came to be challenged by the petitioner before the learned Principal Sessions Judge, Krishnagiri in Crl.R.C.No.9 of 2018 and the same came to be modified on 26.06.2019, by directing the petitioner herein to pay a sum of Rs.4500/- to the respondent where the maintenance was ordered to be paid from the date of the petition, which was under challenge in this Criminal Original Petition.

2. Heard Mr.M.Mohanraj, learned counsel for the petitioner and Mr.N.Muthukrishnan, learned counsel for the respondent.

3. The petitioner has challenged these orders on the ground that he was working as a load man and earning only a sum of Rs.4500/-, whereas these facts were not appreciated. It is the further contention of the petitioner that the respondent wife

had wilfully refused to reconcile with him and therefore, she is not entitled to claim maintenance.

4. When this Criminal Original Petition came for admission, this Court had taken note of the fact that there were huge arrears of maintenance payable to the respondent wife and therefore, passed an interim order on 16.09.2019, directing the petitioner to pay a sum of Rs.1,00,000/- to the respondent wife towards part satisfaction of the arrears of maintenance as ordered in MC.No.30 of 2015 dated 22.06.2018. Though the interim order was passed on 16.09.2019, the learned counsel for the petitioner would submit that they have no instructions from the petitioner herein. The learned Chief Judicial Magistrate, Krishnagiri, while ordering the maintenance had taken into account, the various factors with regard to the petitioner's liability to pay the maintenance and also the fact, the petitioner herein had sufficient means to maintain the respondent. While that being so, the respondent may not be justified in introducing a new plea at this stage that, his monthly income was only Rs.4500/- and therefore find fault with the factual findings of the Courts below. This Court may not be justified in exercising its powers under Section 482 Cr.P.C., for setting aside the maintenance order, on such new facts. Furthermore, the very fact that the petitioner herein had chosen not to comply with the interim conditional order passed by this Court on 16.09.2019, would reveal that the petitioner has no intention to maintain his wife and therefore will not be entitled for any relief herein.

5. In the light of the above observations, I do not find any merits in the grounds raised by the petitioner in this Criminal Original Petition. Hence, the Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

DP
To

Sub Assistant Registrar

1. The Principal Sessions Judge, Krishnagiri.

2. The Chief Judicial Magistrate, Krishnagiri.

+1 cc to Mr.D.Senthil Kumar, Advocate, S.R.No.93945

CrI.OP No.24678 of 2019 and
CrI.M.P.No.13136 of 2019

SR(CO) ///SSM(14/11/2019)