

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 21.10.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.RC.No.768 of 2019

Dr.L.Srinivasn

..Petitioner/Judgement Debtor/
Respondent/Respondent

Vs.

Jensi Rani

..Respondent/Decree Holder/
Petitioner/Petitioner

Prayer:- This Criminal Revision has been filed under Section 397 and 401 of Cr.P.C., to call for the records and revise the order passed by the VI Additional Family Court, Chennai in E.P.No.40/2019 in M.P.No.369/2018 in M.C.No.525/2017 dated 10.07.2019.

For Petitioner	:	Mr.Mohana Krishnan.G
For Respondent	:	Mr.R.Thanikai Arasu

ORDER

- 1.The criminal revision has been filed seeking to call for the records and revise the order passed by the VI Additional Family Judge, Chennai in E.P.No.40/2019 in M.P.No.369/2018 in M.C.No.525/2017 dated 10.07.2019.
2. The petitioner is the husband/judgement debtor in E.P.No.40/2019 and the respondent is the wife/ decree holder. The respondent/wife had filed the execution petition seeking for payment of Rs.1,30,000/- due and payable to her towards arrears of maintenance ordered, to be paid by the petitioner/husband as maintenance at the rate of Rs.15,000/- per month in M.P.No.369/2018 dated 23.10.2018 and in default, to attach the salary of the respondent. The petitioner/husband has filed his counter denying the necessity and contending that the wife/respondent has sufficient funds / income to maintain herself. The trial Court had allowed the Execution Petition and ordered for attachment of salary of the petitioner/ husband, against which the present revision has been filed by the husband.
- 3.The learned counsel for the revision petitioner/husband would submit that the husband has filed a suit challenging the legality of the marriage and that it was dismissed by the trial

Court, against which the husband has preferred appeal. He would submit that when the marriage between the parties is questionable, there is not need for the husband to pay maintenance to the respondent/ wife. The learned counsel for the husband would submit that this Court by order dated 06.08.2019, granted interim stay on condition that the petitioner shall deposit an amount of Rs.65,000/- within a period of four weeks from the date of receipt of copy of this order to the credit of M.C.No.525/2017. He would submit that in due compliance of the order, the petitioner had deposited the said amount on 09.08.2019, thereafter the order of interim stay was extended for further a period of two weeks.

4. The learned counsel for the respondent/wife would submit that the revision has been filed, challenging the order passed in the Execution Petition. He would further submit that the petitioner/husband has not challenged the order granting interim maintenance awarded in M.P.No.369/2018 and it has become final. Since the husband had not paid the interim maintenance as awarded by the Court, the petitioner has filed the Execution Petition and the husband had challenged the execution petition on merits and that the trial Court's finding that the order passed in M.P.No.369/2018 has not been challenged and had become final finding that the interim maintenance had not been paid had after affording opportunity to him has ordered for attachment of salary. He would submit that the revision petitioner/husband is a Doctor by profession and he is evading to make such payment and thereby the Court had rightly passed the order of attachment.
5. I have gone through the evidence available on record and heard both sides.
6. The wife had filed a petition in M.C.No.525/2017 claiming of Rs.40,000/- per month as maintenance. During the pendency of M.C.No.525/2017, the wife had filed a petition in M.P.No.369/2018, seeking for a direction to pay interim maintenance of Rs.30,000/- per month to her. The trial Court, by order dated 23.10.2018, partly allowed the petition and directed the husband to pay a sum of Rs. 15,000/- per month towards interim maintenance from the date of the petition, i.e. 11.04.2018. It is to be noted that the husband had not challenged this order. Consequently, since the husband has not complied with the order in making interim maintenance, the wife had filed an Execution Petition in E.P.No.40/2019 for recovery of arrears of interim maintenance ordered by the Family Court which accrued to a sum of Rs.1,30,000/-. The husband/judgement debtor had filed his counter, denying the necessity and

contending that the wife has sufficient funds /income to maintain herself. The trial Court held that the question of sufficiency of income of the wife does not arise in the execution proceedings and that the husband/judgement debtor had not challenged the order passed in M.P.No.369/2018 and also finding that the husband/judgement debtor had not made any payment towards the arrears of maintenance allowed the Execution Petition by order dated 10.7.2019, ordering attachment of the salary, as against which, the present revision has been filed. As rightly pointed out by the trial Court, the revision petitioner/husband has not challenged the order passed in M.P.No.369/2018, directing the revision petitioner/ husband to pay an interim maintenance at the rate of Rs.15,000/- and the petitioner husband has not complied with the order granting interim maintenance.

7. For the forgoing reasons, I do not find any infirmity in the order passed by the VI Additional Family Court, Chennai in E.P.No.40/2019 in M.P.No.369/2018 in M.C.No.525/2017 dated 10.07.2019 and this Court is not inclined to interfere with the same. Accordingly, this Criminal Revision petition is dismissed. The respondent /wife is entitled to recover the arrears of maintenance through attachment of salary .
8. The learned trial Judge is directed to take up the main case and complete the trial, as expeditiously as possible, and dispose of the main case preferably within a period of three months from today.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The VI Additional Principal Judge,
VI Additional Family Court, Chennai.

+1 cc to M/s.R.Thanigai Arasu, Advocate Sr.No. 88098
+1 cc to M/s.G.Mohanakrishnan, Advocate Sr.No. 87846

AKM/17.12.19/3P-4C /
AKM/09.01.2020

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