



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

Crl.O.P(MD).No.16946 of 2015

and

MP(MD)Nos.1 and 2 of 2015

Vijay Nirmal Puspanath

... Petitioner / Petitioner /
Respondent-Husband

Vs

1.Grace Vinitha

2.Minor Joshwa

... Respondents / Respondents /
Petitioners - Wife & son

(Minor rep. by his mother & Guardian Grace Vinitha)

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records of the learned Additional District and Sessions Judge, Pudukkottai in Crl.R.C.No.26 of 2013 by order dated 29.06.2015, confirming the interim award of maintenance passed by the learned Chief Judicial Magistrate, Pudukkottai in C.M.P.No.1100 of 2012 in M.C.No.12 of 2012 by its order dated 10.10.2013 and set aside the orders of the Courts below.

For Petitioner

: Mr.S.Deenadhayalan

For Respondents

: Mrs.J.Maria Rosaline

ORDER

The petitioner and the respondent herein got married on 02.02.2004. A male child was born through the wedlock on 25.01.2010. The relationship between the parties had come under strain. The first respondent herein filed M.C.No.12 of 2012, on the file of the learned Chief Judicial Magistrate seeking maintenance. In the said maintenance, an interim order was passed in favour of the respondents, herein directing the petitioners herein to pay a sum of Rs.14,000/- per month. Questioning the same, the petitioner filed Crl.R.C.No.26 of 2013, before the Additional District and Sessions Judge, Pudukkottai. By order dated 29.06.2015, the interim order passed by the Court below was confirmed and the revision case suffered a dismissal. Questioning the same, this Criminal Original Petition has been filed.



2.Heard the learned counsel on either side.

3. The only question for consideration is whether the order granting interim maintenance by the learned Trial Magistrate deserves to be interfered with or not. It is seen that aggrieved by the order of the learned Trial Magistrate, the petitioner herein moved the Sessions Court. The revision case suffered its dismissal. He could not have filed a second revision petition before this Court, in view of the bar set out in Section 397(2) of Cr.P.C. To overcome the said bar, the case has been filed under Section 482 of Cr.P.C. It is well settled that the bar against second revision can be overcome and the inherent powers of this Court under Section 482 of Cr.P.C., can be invoked only under certain exceptional circumstances.

4.I am clearly of the view that no such circumstances have been shown to be present in this case. The petitioner is working as a Software Professional. Awarding a sum of Rs.14,000/- per month cannot said to be excessive by any standard. The learned Sessions Judge has clearly observed that the learned Trial Magistrate has not committed any illegality or perversity in passing the order in question. In this view of the matter, I find no ground to interfere. This Criminal Original Petition stands dismissed. Consequently, Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Additional District and Sessions Judge, Pudukkottai.

2.The Chief Judicial Magistrate, Pudukkottai.

+1 CC to M/s.J. MARIA ROSELINE, Advocate (SR-100967[F] 25/11/2019)

+1 CC to M/s.S. DEENADHAYALAN, Advocate (SR-101053[F] 25/11/2019)

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sji

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