



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	02.07.2019
Date of Judgment	15.07.2019

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.R.C(MD)No.345 of 2015

and

Crl.MP (MD)No.1 of 2015

M.Balasubramanian : Petitioner/Respondent/
Respondent

Vs.

Bhanumathi : Respondent/Petitioner/
Petitioner

Prayer: Criminal Revision has been filed under Sections 397 & 401 of Criminal Procedure Code, against the order, dated 09.07.2015 passed by the Additional Chief Judicial Magistrate, Madurai, in Crl.MP No.2178 of 2014 in MC No.37of 2008.

For Appellant : Mr.J.Lawrance

For Respondent : No appearance

O R D E R

This Criminal Revision is directed against the order, dated 09.07.2015 passed by the Additional Chief Judicial Magistrate, Madurai, Crl.M.P No.2178 of 2014 in MC No.37 of 2008.

2.The petitioner has served in Tamil Nadu Police Department and he retired from his service on attaining his age of superannuation and the respondent is his wife and in the year 1982, the marriage between petitioner and the respondent was solemnized and after the marriage, both of them started their matrimonial life at Madurai and from the very beginning of the marriage, the respondent did not cooperate with the petitioner for leading a happy life and she remained in the matrimonial home for a period two months only and due to which, the petitioner was put to physical and mental agony in view of the non-cooperation attitude of the respondent and in enquiry, it was disclosed about her love affairs and sexual relationship with one year prior to the marriage with the petitioner. After a lapse of 26 years, the respondent has filed an



application in MC No.37 of 2008 before the Additional Chief Judicial Magistrate, Madurai under Section 125 of the Criminal Procedure Code, claiming maintenance against the petitioner.

3.The learned Additional Chief Judicial Magistrate has allowed the said petition on 03.07.2012 directing the petitioner to grant maintenance at the rate of Rs.2,000/- per month to the respondent from the date of application i.e., 30.06.2008 and the petitioner paid Rs.96,000/- as maintenance for the period from 30.06.2008 and 03.07.2012. After pronouncement of order in MC No.37 of 2008, the respondent did not pursue further and subsequently, the respondent filed an application in Crl.M.P.No2178 of 2014 for realization of arrears of maintenance amount for the period between 03.09.2012 and 04.08.2014. The said petition was allowed by the trial court on 09.07.2015. Aggrieved by the said order, the petitioner is before this court.

4.The learned counsel appearing for the petitioner submitted that as per the first proviso to sub-section 3 of 125 of Cr.P.C, no order can be passed for recovery of the amount prior to one year from the date on which it became due and the respondent is not entitled to any more amount beyond the period of 12 months. In support of his contention, the learned counsel appearing for the petitioner submitted a ruling reported in **(2005)DMC 684 (Dhareppa Vs. Smt. Renuka)**.

4.Per contra, the learned counsel appearing for the respondent submitted that the trial court has correctly passed the order, which does not require any interference by this court and prays for dismissal of the criminal revision.

5.Heard both sides and perused the materials available on record.

6.From the materials available on record, it is seen that the respondent/wife had filed petition under Section 125 Cr.P.C for maintenance and after contest, the trial court has ordered for maintenance of Rs.2,000/- per month for wife. The respondent herein filed Crl.MP No.2178 of 2014 for realization of arrears of the maintenance amount for a period from 03.09.2012 to 03.08.2014. This application had been resisted by the petitioner/husband by raising various objections and in particular, it was contended that in view of the statutory provisions of Section 125 Cr.P.C, the petition of this nature ought to have been filed claiming arrears of maintenance only for one year.

7.From the arguments canvassed before this court, it is clear that the learned counsel appearing for the petitioner has strenuously contended that the petition under Section 125(3) of Cr.P.C ought to have been filed within one year and maintenance could be claimed for a period of one year from the date on which it



becomes due.

8. On careful perusal of the statutory provisions, it is seen the petition under Section 125(3) Cr.P.C will have to be filed claiming arrears of maintenance for a period of one year.

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9. In the above view, the impugned order passed by the trial court cannot be sustained so far as it relates to the arrears of maintenance for the period from 03.09.2012 to 03.08.2014 though, of course, the respondent/wife is entitled to claim arrears of maintenance for the period of one year for the period from 03.09.2012 to 04.08.2013. Be that as it may, the impugned order requires to be interfered with so far as the recovery of arrears of maintenance for the period from 03.09.2012 to 04.08.2014 is concerned and not for the period from 03.09.2012 to 03.08.2014 for the period of one year earlier to the filing of petition to recover arrears of maintenance accrued till then.

7. In the result, the criminal revision is allowed in part, holding that the respondent/wife is entitled to claim arrears of maintenance for the period from 03.09.2012 to 30.08.2013 and not for the period from 03.09.2012 to 03.08.2014. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS)

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To,

The Additional Chief Judicial Magistrate,
Madurai.

+1 CC to M/s.J.LAWRANCE, Advocate (SR-75354[F] dated 16/07/2019)

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