

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Contempt Petition Nos.511 and 512 of 2020

1.Enitha Suganthi

2.Minor S.Rohith

Minor rep. by his Mother & Natural Guardian

Enitha Suganthi

..Petitioners
in both Cont.Petitions

Vs

Dr.S.Sundarraaj

..Respondent
in both Cont.Petitions

Prayer in both Cont.Petitions: Contempt Petitions filed under Section 11 of Contempt of Courts Act praying to punish the respondent for disobeying the order passed by this Court on 23.07.2019 made in Crl.R.C.No.1237 of 2012 & Crl.R.C.23 of 2014 in accordance with law.

For Petitioners :Mr.R.Saravanakumar

COMMON ORDER

The Petitioners have filed the above contempt petitions seeking to punish the respondent for disobedience of the order of this court dated 23.07.2019 made in Crl.R.C.No.1237 of 2012 and Crl.R.C.23 of 2014.

2. It is the case of the petitioners that they filed the petition in M.C.No.5 of 2005 for maintenance under Section 125 of the Criminal Procedure Code before the learned Judicial Magistrate, Ambattur, Chennai and the learned Magistrate passed the order dated 31.07.2012 awarding maintenance of Rs.5,000/- per month each to the wife and child. Challenging the said order, the petitioners have filed Criminal Revisions before this court. This Court, while passing common order dated 23.07.2019 in CrI.R.C.Nos.1237, 1041 of 2012 and CrI.R.C.23 of 2014, set aside the order dated 29.11.2013 made in M.C.No.5 of 2005 and directed as follows:-

“ 10. As far as criminal revision case in CrI.R.C.No.23 of 2014 filed by the wife is concerned, it is admitted by the husband that the disputed amount paid by the husband was not accepted by the wife. Hence, the order dated 29.11.2013 made in M.C.No.5 of 2005 is hereby set aside and the husband is directed to pay the amount of Rs.42,500/- immediately to the wife preferably within a period of four weeks from the date of receipt of a copy of this order.”

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Further, this court allowed CrI.R.C.No.1237 of 2012 filed by the wife and child and enhanced the maintenance from Rs.5,000/- to Rs.7,500/- each to the wife and child.

3. Since the respondent/husband had not complied with the order of this court within four weeks, the petitioners/wife and child have filed the present contempt petitions.

4. Heard and perused the records.

5. The petitioners have filed M.C.No.5 of 2005 before the learned Magistrate under Section 125 of Cr.P.C. Therefore, if the order passed by the Magistrate or subsequently passed order have not been complied with by the respondent, the petitioners have got remedy under Section 128 of Cr.P.C., to file the Execution Petition and the Magistrate has got the power to execute the order, and such order may be enforced by any Magistrate in any place. If the person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made.

6. Therefore, under these circumstances, these contempt petitions are closed and the petitioners are directed to approach the Magistrate and file

petition under Section 128 Cr.P.C. In case, if the petitioners have filed any petition, the Magistrate is directed to dispose of the petition within one month from the date of filing of such petition, in accordance with law. Further, the Magistrate is directed to take every effort to execute the order passed by this court dated 23.07.2019.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

nvsri

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

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SMI/05/11/2020

To

- 1.The learned Judicial Magistrate, Ambattur, Chennai.
- 2.The Section Officer, Contempt Section, High Court, Madras