

Bail Slip

The Appellant namely Chokkalingam S/o.Unnamalai Reddy aged 43 Years was directed to be released on bail as per order dated 14.03.2018 in CrI MP.NO.3894/18.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2020

CORAM

THE HONOURABLE Mr. JUSTICE R. MAHADEVAN

CrI.R.C.No.320 of 2018

Chokkalingam ... Petitioner

Vs.

Bharathi ... Respondent

Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. seeking to set aside the order passed in C.M.P.No.3184 of 2015 in M.C.No.1 of 2007 dated 30.01.2018 on the file of the learned Judicial Magistrate, Tiruttani, Tiruvallur District.

For Petitioner : Mr.S.Rajan Babu for M/s.Raji and Rajan Associates

For Respondents: Mr.T.Ravi

ORDER

The petitioner herein is the husband and the respondent herein is the wife. The marriage between them took place in the year 1999. Due to a matrimonial dispute between them, the wife went out of the matrimonial home. The respondent filed a petition for maintenance against the petitioner in M.C.No.1 of 2007 on the file of the Judicial Magistrate, Tiruttani. The Trial Court passed an order in the maintenance petition directing the petitioner to pay a monthly maintenance of Rs.3,000/- to the respondent, by order dated 05.08.2010. Since no amount has been paid by the petitioner to the respondent, the respondent filed a petition in C.M.P.No.3184 of 2015 for recovery of maintenance amount from the petitioner, before the Trial Court. Considering the facts and circumstances of the case, the Trial Court, held that since the petitioner has not paid the arrears of maintenance amount, he has to undergo

simple imprisonment and accordingly imposed a punishment of simple imprisonment for a period of one year from the date of the order or until payment of full arrears amount, whichever is earlier, by order dated 30.01.2018. Aggrieved by the same, the present revision has been filed by the petitioner.

2.The learned counsel for the petitioner has submitted that the respondent has not proved that the petitioner had remarried one Chinna Ponnu @ Saroja, in the maintenance petition, but however, the Trial Court has passed the order in M.C.No.1 of 2007 on 05.08.2010 directing the petitioner to pay a sum of Rs.3,000/- as monthly maintenance amount to the respondent. It is also submitted that the respondent herein had filed a petition in C.M.P.No.1205 of 2011 in M.C.No.1 of 2007 and in that petition, an order has been passed imposing a punishment of six months simple imprisonment on the petitioner and the petitioner had undergone the said entire six months simple imprisonment. It is further submitted that only thereafter, C.M.P.No.3184 of 2015 has been filed against the petitioner and in that petition, the Trial Court has imposed a punishment of one year simple imprisonment on the petitioner and the petitioner has been sent to prison on 30.01.2018 for undergoing the sentence. Stating so, the learned counsel prayed for quashing the impugned order.

3.The learned counsel for the respondent has submitted that the Trial Court has correctly considered the materials on record and has passed the impugned order.

4.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

5.On 14.03.2018, this Court passed an order suspending the sentence imposed on the petitioner / accused on condition to execute a bond for a sum of Rs.10,000/- with two sureties each for a like sum to the satisfaction of the learned trial Judge and on further condition that the petitioner has to deposit the entire arrears of enhanced maintenance amount as ordered by the trial Judge, within two weeks.

6.Today, when this revision was taken up, the learned counsel for the respondent has submitted that the petitioner has not complied with the condition in respect of deposit of maintenance amount before the Trial Court, even at this length of time.

7.In view of the failure to comply with the condition imposed by this Court as regards deposit of maintenance amount before the Trial Court while granting suspension of sentence, the order passed on 14.03.2018 does not survive.

8.Further, a perusal of the papers would reveal that for the period from 28.02.2007 to 14.09.2013, the arrears of maintenance amount was directed to be paid for which notice was issued to the petitioner, but he had not paid any amount. Hence, a punishment of six months simple imprisonment was imposed on the petitioner. Even after undergoing simple imprisonment for six months, the petitioner had not come forward to pay any amount to the respondent. In this connection, the Court below has observed that even though many opportunities have been given, the petitioner had not paid any amount, which only showed his lethargic and adamant attitude and accordingly, imposed a punishment of one year simple imprisonment from the date of the order or until payment of full arrears amount whichever is earlier, by way of passing the impugned order. Considering the facts and circumstances, this Court is not inclined to interfere with the same.

9.In view of the above stated circumstances, the Criminal Revision Case is dismissed. The learned Judicial Magistrate, Tiruttani, Tiruvallur District, shall take steps to ensure the custody of the petitioner to undergo the remaining period of sentence, if any.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

KM
To

- 1.The Judicial Magistrate, Tiruttani.
2. Do thro the Chief Judicial Magistrate, Thiruvallur
- 3.The Public Prosecutor,
Madras High Court.

+lcc to Mr.Raji & Rajan , Advocate SR.No. 5027

Cr1.R.C.No.320 of 2018

A.SK(05/03/2020)
A.SK(23/03/2020)