

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

Cr1..RC.No.384 of 2020
and Cr1.MP.No.2852 of 2020

K.Rajesh

... Petitioner

Vs.

1.S.Priya

2.Harshitha

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C, to call for the records and set aside the order dated 04.12.2019 passed in M.C. No.419 of 2019 by the V Additional Judge, Family Court, at Chennai.

For Petitioner : M/s.M.Meenatchi

ORDER

This petition has been filed to set aside the order passed in M.C. No.419 of 2019 on the file of the V Additional Judge, Family Court, Chennai dated 04.12.2019.

2. The respondents herein have filed a petition under Section 125 of Cr.P.C before the V Additional Family Court, Chennai seeking maintenance of Rs.25,000/- per month each. In that petition, the petitioner herein remained ex-parte and after considering the materials produced by the petitioners therein, the Trial court has allowed the said petition partly directing the petitioner herein to pay a sum of Rs.15,000/- per month to the first respondent herein and Rs.15,000/- per month to the second respondent herein and also directed the petitioner herein to pay the said amount from the date of petition. Challenging the said order, the respondent therein / husband of the first petitioner and father of the second petitioner has filed this Criminal Revision.

3. According to the petitioner, no notice was served on him in MC.No.419 of 2019. Notice which was sent through Court was returned as 'left' and 'no such person' and without considering the said fact, the Trial Court has set the petitioner ex-parte.

4. If the petitioner feels that no notice was served on him he has to file a petition under Section 126 (2) of Cr.P.C to set aside the said ex-parte order by giving proper reasons. If any, such petition is filed before the Trial Court, the Trial

Court will have to see whether the petitioner has good reason for his non-appearance before the Trial Court and give an opportunity to the petitioner to contest the case. Instead of filing the said petition, the petitioner cannot file revision before this Court. The petitioner can challenge the order passed by the Trial Court on merits by filing Revision, if he feels that the Trial court should not have allowed the maintenance petition even if he has not contested the said petition. In this case, the petitioner has not challenged the orders on merit. His grievance is that the Trial Court should not have set him ex-parte. In such a case, he has to file a petition before the Trial Court to set aside the ex-parte order.

5. This Court does not find any merits in this petition. Accordingly, this Criminal Revision Petition is dismissed.

Drl

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The V Additional Family Court,
Chennai.

Crl.R.C.No.384 of 2020

VBA (CO)
nvi/28.05.2020

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