

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.R.C.No.49 of 2018 and  
Crl.M.P.Nos.322 and 9681 of 2018

A.Anthony Xavier ... Petitioner

vs

Patricia ... Respondent

Prayer:- Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C. praying to set aside the order dated 08.03.2017 passed in M.P.No.567 of 2016 in M.C.No.326 of 2009 on the file of the Additional Principal Judge, Family Court, Chennai.

For Petitioner : No appearance

For Respondent : Mr.K.Kannan

ORDER

There is no representation for the petitioner either in person or through his learned counsel on the previous hearing i.e., on 28.01.2020 as well as today's hearing. However, considering the nature of the issue involved herein, this Court is inclined to proceed with the matter on merits.

2.The Criminal Revision Case is filed seeking to set aside the attachment order dated 08.03.2017 passed by the learned Additional Principal Judge, Family Court, Chennai in M.P.No.567 of 2016 in M.C.No.326 of 2009.

3.The petitioner and the respondent are the husband and wife. Due to matrimonial dispute, they got separated. The respondent/wife filed MC.No.326 of 2009 before the I Additional Family Court, Chennai. By order dated 29.01.2013, the said petition was partly allowed, directing the petitioner / husband to pay a sum of Rs.3,000/- per month from the date of petition i.e., 24.03.2009 till the date of order and thereafter, pay a sum of Rs.6,000/- per month to the respondent/wife towards

maintenance, on or before 5<sup>th</sup> of every English calender month without fail. To review the said order by enhancing the quantum of maintenance, the respondent/wife filed MP.No.173 of 2013 in MC.No.326 of 2009, stating that the Family Court, vide order dated 14.02.2011, had already ordered the interim maintenance at the rate of Rs.5,000/- per month. By order dated 07.09.2013, the said miscellaneous petition was partly allowed and the earlier order dated 29.01.2013 was recalled and reviewed and the petitioner / husband was directed to pay a sum of Rs.5,000/- per month from the date of petition for maintenance i.e., 24.03.2009 till August 2012 and thereafter, continue to pay a sum of Rs.10,000/- per month from September 2012 towards maintenance to the respondent/wife, on or before 5<sup>th</sup> of every calender month and further directed to pay the arrears immediately. Since the petitioner/husband has not made any payment towards maintenance, the respondent/wife filed MP.No.567 of 2016 for attachment of the salary of the petitioner / husband. The said petition was considered by the Family Court and a warrant was issued to enforce payment of maintenance by attaching the salary of the petitioner / husband on 08.03.2017. Aggrieved over the same, the petitioner / husband has preferred this criminal revision case.

4. On 19.01.2018, this Court, while admitting this criminal revision, has granted an order of interim stay on condition that the petitioner shall deposit the arrears of maintenance at the rate of Rs.10,000/- per month for a period of one year i.e., from 25.10.2015 to 30.09.2016. The said order has been complied with. Thereafter, vide order dated 31.10.2018, the interim order was modified to the effect that the petitioner shall pay the monthly maintenance of Rs.10,000/- on or before 5<sup>th</sup> of every English Calendar Month and the respondent / wife was permitted to withdraw the maintenance amount lying in the deposit.

5. It is submitted by the learned counsel for the respondent that though this Court has specifically directed the petitioner / husband to pay the monthly maintenance to the respondent/ wife, the same has not been complied with by the petitioner / husband, till date. Due to the same, the respondent / wife finds it difficult to maintain herself.

6. This Court considered the submission made by the learned counsel for the respondent and perused the materials available on record.

7. It is seen that the petitioner / husband has not challenged the original order dated 29.01.2013 made in M.C.No.326/2009 and the subsequent order dated 07.09.2013 made in M.P.No.179/2013 in M.C.No.326/2009 by the Family Court. dated 07.09.2013, at any point of time and hence, the said order holds good. Though the petitioner/ husband is under a moral

obligation, to maintain the respondent/wife, he failed to discharge the said responsibility. In such circumstances, the respondent / wife has no other option except to seek direction to attach the salary of the petitioner/ husband. Accordingly, she has preferred the petition in MP.No.567 of 2016, in which, warrant was issued on 08.03.2017. This Court finds no infirmity or illegality in the order so passed by the Family Court, as the basic purpose of Section 125 Cr.P.C is to provide speedy relief to the destitute woman who is not having any independent source of income.

8.In such view of the matter, this Criminal Revision Case stands dismissed. It is open to the respondent to proceed against the petitioner/ husband in the manner known to law. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Additional Principal Judge,  
Family Court, Chennai.

+lcc to M/s.K.Kannan, Advocate Sr.9873

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Crl.R.C.No.49 of 2018

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