

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Crl.O.P.No.16288 of 2020

1.H.Sumathi

2.H.Stella

..Petitioners

Vs.

K.Harikrishnan

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the learned IIIrd Additional Family Court Judge at Chenani to take up the Execution petition in M.P.No.107 of 2019 in M.C.No.287 of 2006 on his file and dispose the same as expeditiously as possible within the stipulated period of time frame pending on the file of learned IIIrd Additional Family court.

For Petitioners : Mr.R.Krishnamurthy

O R D E R

(This case has been heard through video conferencing)

This Criminal Original Petition has been filed seeking direction to direct the IIIrd Additional Family Court Judge to take up the execution petition filed in M.P.No.107 of 2019 in M.C.No.287 of 2006 pending on his file and dispose the same within the stipulated time as fixed by this Court.

2.Heard Mr.R.Krishnamurthy, learned counsel for the petitioner.

3. In an earlier occasion, the petitioners herein filed an application before the Family Court, Chennai under section 125 Cr.P.C against the respondent in which she is claiming maintenance for herself and on behalf of her minor children.

4. Vide order dated 08.11.2019, learned IIIrd Additional Family Court Judge has allowed the application filed by the petitioners and directed the respondent to pay a sum of Rs.5,000/- to the first petitioner and another sum of Rs.3,000/- to the second petitioner per month towards maintenance. Further, he directed the respondent to pay a sum of Rs.1,08,000/- to another minor child of the first petitioner herein at the rate of Rs.2,000/- per month. According to the petitioners, till now,

the said order passed by the learned IIIrd Additional Family Court Judge have not been complied with by the respondent and therefore, she filed an application under section 128 Cr.P.C for enforcing the direction given by the learned IIIrd Additional Family Court Judge.

5. It is the grievance of the petitioners that the said application filed by the petitioner in M.P.No.107 of 2020 has not been disposed of and also learned Presiding Officer has not taken any effective steps for recovering the arrears amount which is payable by the respondent to the petitioners. Accordingly, they prayed to allow this petition and pass positive orders in their favour.

6. Now on considering the relevant records, it is not in dispute that the first petitioner herein is the wife of the respondent. Further, the learned IIIrd Additional Family Court Judge has directed the respondent to pay the maintenance in the year 2009. Therefore, without filing any proper application for challenging the said order, refusing to pay the arrears is nothing against the order passed by the IIIrd Additional Family Court Judge.

7. In the said circumstances, the Presiding Officer of the said Court is having duty by following the guidelines stipulated in section 125 (3) Cr.P.C and to recover the arrears of maintenance. In otherwise, inaction on the part of the Court will cause much prejudice to the petitioners. Therefore, it would appropriate to direct the learned IIIrd Additional Family Court Judge to dispose the M.P.No.107 of 2019 in M.C.No.287 of 2006 within a period of three months.

8. Accordingly, learned IIIrd Additional Family Court Judge is directed to dispose of the M.P.No.107 of 2019 in M.C.No.287 of 2006 within a period of three months from the date of receipt of a copy of this order. This Criminal Original Petition is disposed of, with the above direction.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. IIIrd Additional Family Court Judge, Chennai.

2. The Public Prosecutor,
High Court, Madras.

+lcc to M/s.R.Krishnamurthy, Advocate in SR.NO..33934

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SSV(CO)
RV(10/11/2020)



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