

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.07.2020

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.23911 of 2017 and
Crl.M.P.No.13840 of 2017

Sekar @ Dhanasekar

... Petitioner

Vs.

1.Selvi

2.Minor Yuvaraj

3.Minor Lokesh

(Respondents 2 and 3 are
represented by their next

friend, mother, 1st respondent) ... Respondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records in connection with the Crl.M.P.No.216/2017 in Crl.O.P.No.Unnumbered/2017 on the file of the learned Principal District and Sessions Judge, Krishnagiri, Krishnagiri District and set aside the order dated 23.08.2017.

For Petitioner : Mr.E.Kannadasan

For Respondents : Mr.C.Prabhakaran

O R D E R

This petition has been filed challenging the order passed in Crl.M.P.No.216/2017 in Crl.O.P.No.Unnumbered/2017 on the file of the learned Principal District and Sessions Judge, Krishnagiri, Krishnagiri District, thereby allowing the petition for condoning the delay of 274 days in filing the Criminal Revision on condition that the petitioner shall pay arrears of sum of Rs.1,00,000/- to the respondents on or before 22.08.2017.

2. The learned counsel for the petitioner would submit that the petitioner is the husband of the 1st respondent herein, after marriage with the 1st respondent, they gave birth to the respondents 2 and 3. Thereafter, due to misunderstanding, both petitioner and the 1st respondent got separated and living separately and while being so, the 1st respondent has filed maintenance petition in M.C.No.6 of 2015 and the same was allowed and directed the petitioner herein to pay a sum of Rs.5,000/- each to all the three respondents from the date of petition as maintenance. It was challenged before the learned Principal District and Sessions Judge, by way of Criminal Revision Case with a delay of 274 days in filing the

revision. The learned First Appellate Court while allowing the condone delay petition imposed onerous condition. Since the petitioner had already paid Rs.95,000/- and the same was acknowledged by the 1st respondent herein on 06.11.2016 and the learned counsel for the 1st respondent also admitted that the amount has already been received by them on 06.11.2016.

3. Heard Mr.E.Kannadasan, learned counsel for the petitioner and Mr.C.Prabhakaran, learned counsel for the respondents.

4. It is seen that this petition has been filed challenging the order passed by the learned Principal District and Sessions Judge, while allowing the condonation of delay of 274 days in filing the revision challenging the order passed in M.C.No.6 of 2015 on the file of the learned Chief Judicial Magistrate, Krishnagiri, thereby directed the petitioner to pay a sum of Rs.5,000/- each to the respondents as maintenance.

5. Now, on perusal of records would shows that the petitioner had already paid a sum of Rs.95,000/- as maintenance to the respondents, after the order passed by the learned Chief Judicial Magistrate on 06.11.2016. Even then, 5 years have been completed and the total arrears of maintenance amount is approximately Rs.4,50,000/-.

6. The learned counsel for the petitioner would submit that the petitioner is ready and willing to pay the entire arrears amount to the respondents.

7. Considering the above facts and circumstances of the case, the order passed by the learned Principal District Sessions Judge, Krishnagiri, Krishnagiri District, dated 23.08.2017 in CrI.M.P.No.216/2017 in CrI.O.P.No.Unnumbered/2017 is set aside on condition that the petitioner shall pay the arrears of maintenance of Rs.3,50,000/- (Rupees Three Lakhs and Fifty Thousand only) to the 1st respondent herein directly by way of Demand Draft within a period of four weeks from the date of receipt of a copy of this order, failing which, this order stands automatically cancelled and the respondents are directed to proceed as against the petitioner/husband in accordance with law.

8. With the above direction, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CS-I)

True Copy

To

The Principal District and Sessions Judge,
Krishnagiri,
Krishnagiri District.

Ev(co)
krd 18/8

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