



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.R.C.No.1237 of 2018

and

Crl.M.P.No.14734 of 2018

Varadharajan

..Petitioner

Vs

Palaniammal

..Respondent

Prayer:- Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C. praying to set aside the order dated 30.08.2017 passed in C.M.P.No.50 of 2017 in M.C.No.43 of 2009 on the file of the Family Court, Salem.

For Petitioner : Mr.R.Nalliyappan

For Respondent : Mr.R.Maradhachalamurthy

ORDER

The petitioner herein is the husband and the respondent herein is the wife. The respondent filed a maintenance case in MC.No.43 of 2009, which came to be ordered exparte, on 10.02.2011. By the said order, the petitioner was directed to pay a sum of Rs.3,000/- towards monthly maintenance to the respondent, from the date of filing the maintenance case. Feeling aggrieved, the petitioner filed CMP.No.50 of 2017 before the Family Court, Salem, to condone the delay of 2210 days in filing the petition to set aside the exparte order dated 10.02.2011. The said petition was allowed subject to the condition that the petitioner shall deposit a sum of Rs.1,00,000/- into the Court within one month from the date of the order, failing which the petition shall stand dismissed automatically. However, the petitioner has not complied with the said conditional order till date, but he filed the present criminal revision case to set aside the same.

2.On 19.11.2018, when this Criminal Revision was taken up for consideration, this Court has granted an order of interim stay till 28.11.2018, which was subsequently extended till the completion of service of notice on the respondent.



3. Heard the learned counsel for the petitioner and perused the materials placed before this Court.

4. According to the learned counsel for the petitioner, the respondent, who deserted the petitioner and is living separately very next to the residence of the petitioner, has preferred the maintenance case, furnishing wrong address of the petitioner only with an intention to harass him, who is aged about 64 years. Hence, the learned counsel sought to allow the petition to condone the delay in filing the petition to set aside the exparte order dated 10.02.2011 passed in the maintenance case.

5. This Court is of the opinion that the reason so stated for such inordinate delay is not convincing and satisfactory. In the absence of any concrete proof to substantiate his case, the petitioner, who is under a moral obligation to maintain the respondent, cannot get any relief in this criminal revision.

6. That apart, the order dated 10.02.2011 passed by the Family Court fixing the monthly maintenance at the rate of Rs.3,000/- in favour of the respondent though, is an exparte order, the quantum so fixed is very meagre and afforded to be paid by the petitioner, considering the facts and circumstances of the case and having regard to the prevailing cost of living. However, the petitioner has not paid any amount to the respondent till date.

7. In such view of the matter, this criminal revision fails and is accordingly, dismissed. It is open to the respondent to recover the arrears of maintenance and monthly maintenance from the petitioner in accordance with law. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Judge Family Court, Salem.

+1cc to Mr.R.Nalliyappan, Advocate, S.R.No.9877

+1cc to Mr.R.Marudhachalamurthy, Advocate, S.R.No.10332

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and

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SS(CO)

KKV/12/08/2020