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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 20.01.2020

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THE HONOURABLE MR. JUSTICE B.PUGALENDHI

Cr1.O.P. (MD) Nos.22596 of 2015 & 863 of 2017

Senthilkumar .. Petitioner in both petitions

Vs.

1.P.S.D.Saravana Hari Devi

2.Minor S.Subrajasri
Rep. through her mother /
natural guardian - 1st respondent

.. 1st & 2nd Respondents in both petitions

3.The Inspector of Police,
Anna Nagar Police Station,
Madurai. .. 3rd Respondent in Cr1.OP.(MD) 863/17

PRAYER in Cr1.OP.(MD)22596/15: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for the records in connection with the order passed by the learned Judge, Family Court, Madurai, in Cr.M.P.No.209 of 2015 in M.C.No.101 of 2013, dated 19.10.2015 and set aside the same.

PRAYER in Cr1.OP.(MD)863/17: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to direct the learned Judge, Family Court, Madurai, to consider the recall warrant petition of the petitioner filed under Section 70(2) of Cr.P.C. in the event of his surrender in connection with the Non-Bailable Warrant issued on 25.11.2015 in M.C.No.101 of 2013, on the file of the Family Court, Madurai, on the same day itself.

For Petitioner : Mr.R.Srinivasan
(In both petitions)
For R.1 & R.2 : Mr.T.Lajapathi Roy
(In both petitions)
For R.3 : Mr.K.K.Ramakrishnan,
Additional Public Prosecutor
(In Cr1.OP.(MD) 863/17)



COMMON ORDER

Criminal Original Petition in Crl.O.P.(MD)No.22596 of 2015 is filed by the petitioner to set aside the order passed in Cr.M.P.No.209 of 2015 in M.C.No.101 of 2013, dated 19.10.2015, by the Family Court, Madurai.

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2. The 1st respondent / complainant filed a petition for maintenance under Section 125 Cr.P.C., before the Family Court, Madurai, in M.C.No.101 of 2013 and the same was allowed as an ex-parte order on 04.06.2014. As against the ex-parte order, the petitioner filed an application to set aside the same. The trial Court, in Cr.M.P.No.209 of 2015, allowed the application for condoning the delay in filing the set aside application and directed the petitioner to deposit a sum of Rs.1,00,000/-, before the Court, on or before 25.11.2015. Aggrieved over the same, the petitioner has preferred the criminal original petition in Crl.O.P.(MD)No.22596 of 2015.

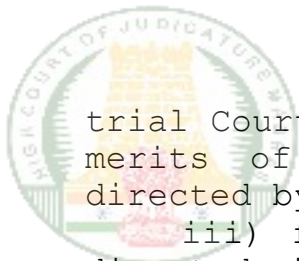
3. Pending this Criminal Original Petition, this Court, by order dated 13.11.2015, modified the order of the trial Court and directed the petitioner to deposit a sum of Rs.50,000/- to the credit of M.C.No.101 of 2013 and permitted the petitioner to take private notice to the complainant. Accordingly, the petitioner had also deposited the sum of Rs.50,000/- to the credit of M.C.No.101 of 2013 on 04.12.2015. In the meantime, the trial Court issued a Non-Bailable Warrant of arrest as against this petitioner on 25.11.2015 and challenging the same, he has filed the criminal original petition in Crl.O.P.(MD)No.863 of 2017 to recall the warrant dated 25.11.2015, issued in M.C.No.101 of 2013.

4. Since both the criminal original petitions are pertaining to the proceedings in M.C.No.101 of 2013, both of them are disposed of by this common order.

5. Considering that the issue is pending before this Court right from 2015, this Court, in order to meet the ends of justice, is inclined to pass the following directions:

i) the petition in Crl.O.P.(MD)No.22596 of 2015 is allowed, with a direction to the Family Court, Madurai, to restore M.C.No.101 of 2013 and to conclude the same, after affording an opportunity to all the parties concerned, within a stipulated time limit, in any event, not later than six months from the date of receipt of a copy of this order.

ii) the petitioner shall pay a sum of Rs.10,000/-, each, to respondents 1 & 2, per month, as an interim maintenance, right from this month till the conclusion of the proceedings in M.C.No.101 of 2013. The aforesaid sum shall be paid by the petitioner directly to the 1st respondent in the first week of every month, without fail, till the disposal of M.C.No.101 of 2013. It is made clear that this is an interim arrangement pending the trial and the



trial Court shall decide the maintenance case, independently, on the merits of the case, uninfluenced by the order of maintenance directed by this Court.

iii) for concluding the proceedings in M.C.No.101 of 2013, as directed in Crl.O.P.(MD)No.22596 of 2015, the criminal original petition in Crl.O.P.(MD)No.863 of 2017 is also allowed and the non-bailable warrant of arrest issued as against the petitioner on 25.11.2015 is recalled and the petitioner shall appear before the trial Court on 05.02.2020.

6. In fine, both the Criminal Original Petitions are allowed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Family Court,
Madurai.

2.The Inspector of Police,
Anna Nagar Police Station,
Madurai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

4.The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO MR.T.LAJAPATHI ROY, ADVOCATE, SR NO.2122
+1CC TO MR.R.SRINIVASAN, ADVOCATE, SR NO.2446

Crl.O.P. (MD) Nos.22596 of 2015 & 863 of 2017
20.01.2020

KK/SAR/31.01.2020/3P-7C/