



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**Crl.O.P (MD)No.11813 of 2018
and
Crl.M.P. (MD)No.5362 of 2018**

Sakthivel

... Petitioner

Vs.

1.Malarkodi

2.Minor Karthika ... Respondents
(Rep. By her mother and next guardian and
friend 1st respondent Malarkodi)

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records of the learned Additional Sessions Judge, Karur in Crl.R.C.No.46 of 2017 by judgment dated 07.03.2018, reversing the dismissal order of maintenance passed by the learned Chief Judicial Magistrate, Karur in M.C.No.5 of 2015 by the judgement dated 14.09.2017 and set aside the order of the learned Additional Sessions Judge, Karur in Crl.R.C.No.46 of 2017 dated 07.03.2018.

For Petitioner : Mr.S.Deenadhayalan

For Respondents : Mr.M.P.Senthil

O R D E R

This criminal original petition has been filed challenging the order passed by the Revisional Court in Crl.R.C.No.46 of 2017 on the file of the learned Additional Sessions Judge, Karur. The respondents herein are the wife and daughter of the petitioner herein. The respondents filed M.C.No.5 of 2015 on the file of the learned Chief Judicial Magistrate, Karur. Eventhough the relationship between the parties is not under dispute, the maintenance case suffered dismissal vide order dated 14.09.2017. Because it was contended by the petitioner that the respondents have already filed maintenance suit and the same was also decreed.



2.It is true that the respondents herein had also filed O.S.No.18 of 2015 and the same had also been decreed. But then, that could not have been the ground for dismissal of the maintenance case itself. Of course, if the respondents file any execution for enforcing the decree, the amount paid in this proceeding can be given adjustment and set off. Therefore, the Revisional Court rightly reversed the order passed by the learned Chief Judicial Magistrate, Karur. I am of the view that no interference is warranted. With the observation that the petitioner is entitled to set off and adjustment, the criminal original petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To:

1.The Additional Sessions Judge, Karur.

2.The Chief Judicial Magistrate, Karur.

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-13147[F] dated 05/06/2020)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

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SDS (30.06.2020) 2P-4C