

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.NO.135 OF 2021

AND

CRL.M.P.NO.2638 OF 2021

A.Prabakaran
S/o.Arunachalam

... Petitioner/
Respondent

Versus

1. A.Jeyapraba
W/o.Prabakaran

2. P.Meena
D/o.Prabakaran

3. P.Svetha
D/o.Prabakaran
2nd and 3rd Respondents are minor
represented by their mother the
First respondent

... Respondents/
Petitioner

PRAYER: Criminal Revision petition is filed under Section 397 r/w.401 Cr.P.C to call for the records pertaining to order dated 19.12.2019 passed in the above CMP.No.2229 of 2019 in M.C.No.1 of 2019 pending on the file of the District Munsif cum Judicial Magistrate, Ranipet, Vellore and set aside the same.

For Petitioner : Mr.S.Pushpakaran

For Respondents : Mrs.A.Jayapraba
1st Respondent (Party-in Person)

O R D E R

The petitioner is the husband. The respondents are wife and children. The 1st respondent herein filed HMOP.No.173 of 2018 for divorce against the petitioner. The respondents have filed Maintenance Case in M.C.No.1 of 2019 before the District Munsif cum Judicial Magistrate, Ranipet seeking maintenance. The first respondent also filed another petition in DVC.No.2 of 2019

before the District Munsif cum Judicial Magistrate, Ranipet for granting some reliefs. In the mean time, the respondents have filed CMP.No.2229 of 2019 before the District Munsif cum Judicial Magistrate, Ranipet seeking interim maintenance till the disposal of the main case. The learned Magistrate, by an order dated 19.12.2019 passed in CMP.No.2229 of 2019 directed the petitioner herein to pay Rs.5,000/- each to the second and third respondent in addition to Rs.5,000/- already ordered as interim maintenance in DVC.No.2 of 2019. Challenging these orders, the petitioner has filed present revision before this Court.

2. The learned counsel for the petitioner would submit that already O.P., filed by the first respondent/wife for divorce in HMOP.No.173/2018 is pending. In the mean time, the first respondent filed DVC.2 of 2019 wherein, the court awarded Rs.5,000/- to the respondents for interim maintenance. The 1st respondent also simultaneously filed petition in CMP.No.2229 of 2019 in M.C.No.1 of 2019 seeking interim maintenance of Rs.10,000/- each for herself and son and to pay the school fees of second and third respondent for a sum of Rs.1,05,000/-. The District Munsif cum Judicial Magistrate, Ranipet failed to consider the fact that already order has been passed awarding maintenance of Rs.5,000/- to the respondents as interim maintenance in DVC.02 of 2019 and directed the petitioner to pay Rs.5,000/- each to the respondents and to pay the school fees of Rs.1,05,000/-. Therefore, the order of the District Munsif cum Judicial Magistrate is liable to be set aside.

3. The first respondent appeared through Video conferencing and stated that the order passed by the learned District Munsif cum Judicial Magistrate in CMP.No.2229 of 2019 in M.C.No.1 of 2019 has not been complied with, by the petitioner.

4. Admittedly, petitioner is the husband. Respondents are the wife and children. It is not in dispute that the petitioner and the respondents are living separately. The first respondent has filed CMP.No.2229 of 2019 in MC.No.1 of 2018 for interim maintenance. The order passed by the District Munsif cum Judicial Magistrate on 19.12.2019 is only in the nature of interlocutory order. Hence, no revision would lie before this Court. The scope of Section 397 Cr.P.C., shall not be exercised in relation to any interlocutory order passed in any proceedings. Since the Maintenance Case is pending, the present Revision is not maintainable.

5. Under these circumstances, this court finds that there is no perversity in the order passed by the District Munsif cum Judicial Magistrate, Ranipet in CMP.No.2229 of 2019 in MC.No.1 of 2018 dated 19.12.2019. Therefore, the order passed by the

District Munsif cum Judicial Magistrate, Ranipet is confirmed. The learned Magistrate is directed to dispose the Maintenance Case in accordance with law within a period of three months from the date of receipt of a copy of the order and also execute the order passed by the learned Magistrate in CMP.No.2229 of 2019 in MC.No.1 of 2018 dated 19.12.2019.

6. In the result, this Criminal Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

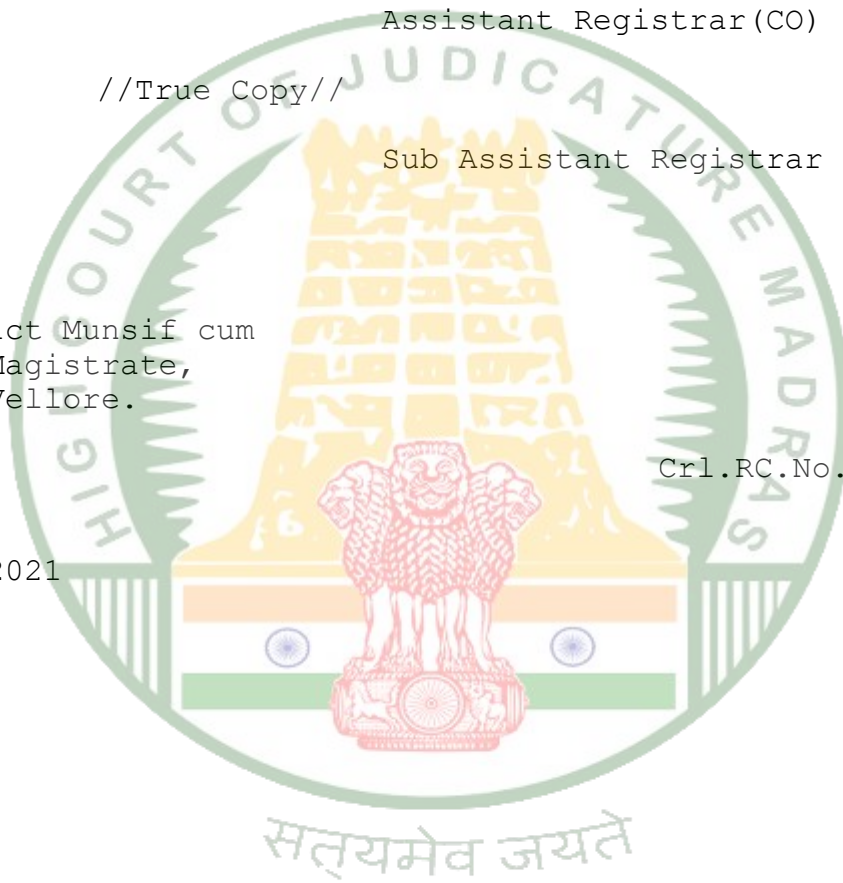
dh

To

The District Munsif cum
Judicial Magistrate,
Ranipet, Vellore.

Crl.RC.No.135 of 2021

KK(CO)
CS/16/06/2021



WEB COPY