



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.R.C.NO.506 OF 2016 AND
CRL.M.P.NO.3449 OF 2016

Ramamurthy

...Petitioner/Respondent

-Vs-

1. Dhanalakshmi

2. Minor R.Divya

3. Minor R.Deepalakshmi

Rep. By their mother and natural
guardian

...Respondents/Petitioners

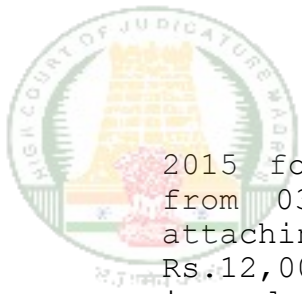
This Criminal Revision Petition is filed under Sections 397 read with Section 401 of Cr.P.C. call for the records made in CMP. No.2127 of 2015 in MC.No.16 of 2011 dated 21.12.2015 on the file of the learned Judicial Magistrate, Katpadi and set aside the same.

For Petitioner : Mr.R.Sankarasubbu

O R D E R

This criminal revision has been filed against the order passed in CMP. No.2127 of 2015 in MC.No.16 of 2011 dated 21.12.2015 on the file of the learned Judicial Magistrate, Katpadi.

2. The petitioner is the husband, first respondent is the wife and the respondents 2 & 3 are the daughters. The respondents herein had filed a petition seeking maintenance against the petitioner/husband before the learned Judicial Magistrate, Katpadi in MC. No.16 of 2011 under Section 125 of Cr.P.C. The learned Judge, after adverting to the materials placed on record and after hearing both the parties, had awarded a sum of Rs.11,000/- per month to the respondents vide order dated 21.12.2015 from the date of the petition. But, the petitioner has failed to pay the maintenance amount from 01.04.2013. As on 02.05.2015, the petitioner has to pay the arrears of maintenance i.e. Rs.2,75,000/-. Therefore, the respondents filed a miscellaneous petition in CMP.No.2127 of



2015 for collection of arrears of maintenance for the period from 03.04.2013 to 02.05.2015 and the same was allowed by attaching the salary of the petitioner to the tune of Rs.12,000/- every month, till the total arrears of Rs.2,75,000/- is cleared. Challenging the order dated 21.12.2015, the petitioner/husband has preferred the present criminal revision case before this Court.

3. The learned counsel for the petitioner submitted that during the pendency of the maintenance case, the parties have arrived at the settlement before the Lok Adalat. As per the settlement, a settlement deed was executed in favour of their daughters. Further the learned counsel submitted that the divorce petition is also still pending. When the divorce case is pending before the trial Court and also the parties arrived at a settlement between them, the attachment of the salary of the petitioner is not acceptable one. Hence, the learned counsel prays to allow the petition.

4. When the matter is called, there is no representation for the respondents, as the notice has been served on them. Heard the learned counsel for the petitioner and perused the materials available on record.

5. The facts of the case is not in dispute and the relationship between the parties is not in dispute. It is also not in dispute that the trial Court directed the petitioner herein to pay the maintenance of Rs.11,000/- per month to the respondents herein. The petitioner has not paid the maintenance regularly, for which there was arrears for the period from 02.04.2012 to 01.04.2013 and 03.04.2013 to 02.05.2015. Therefore, the respondents has filed a petition for collection of arrears. The petitioner has also admitted before the trial Court that total due is pending for a sum of Rs.2,75,000/- as arrears. In order to realize the said amount, the trial Court attached a sum of Rs.12,000/- every month from the petitioner's salary by invoking Section 421(1)(a) of Cr.P.C, till the total arrears of Rs.2,75,000/- is cleared. The only ground raised by the petitioner is that there was a settlement deed executed in favour of his daughters viz., respondents 2 & 3. Merely, an execution of settlement deed and the pendency of the divorce petition will not preclude the lower Court to pass an attachment order in terms of Section 421(1)(a) of Cr.P.C, However, the petitioner has to pay the maintenance to the respondents and there is no reason to interfere with the order of attachment passed by the learned Judicial Magistrate, Katpadi in CMP. No.2127 of 2015 in MC.No.16 of 2011 dated 21.12.2015 and the same is confirmed. The petitioner is directed to pay the arrears of maintenance to the respondents within a period of four weeks from the date of receipt of a copy of this order.



6. With the above discussion, this criminal revision case is dismissed. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rli

To

The Judicial magistrate, Katpadi.

Crl.R.C.No.506 of 2016 and
Crl.M.P.No.3449 of 2016

SSD(CO)
PM/12/10/2021