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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.R.C.No.807 of 2018

And

CrI.M.P.No.9174 of 2018

Jawahar

...Petitioner / Respondent /
Respondent

Vs.

1.Gayathri

2.Minor Manoj Prakash, S/o. Jawahar,
Represented by mother and next friend
Gayathri

...Respondents / Petitioners /
Petitioners

Prayer : Petition filed under Sections 397 and 401 of Criminal Procedure Code, seeking to allow the revision and dismiss CrI.M.P.No.1591 of 2018 in M.C.No.35 of 2017 on the file of Judicial Magistrate, Thiruthuraipoondi.

For Petitioner : Mr.V.Balasubramanian

For Respondents : Mr.Dhanabalakrishnan

O R D E R

The petitioner has filed this petition seeking to set aside the order dated 22.05.2018 made in CrI.M.P.No.1591 of 2018 in M.C.No.35 of 2017 by the learned Judicial Magistrate, Thiruthuraipoondi.

2.The facts of the case is that the marriage between the petitioner and the first respondent was solemnized on 11.03.2001 and out of the wedlock, a male child was born. Thereafter, there was matrimonial dispute inbetween them and the petitioner driven out the respondents from the matrimonial home. Thereafter, the petitioner filed petition seeking divorce on the ground that the first respondent is mentally ill and along with the said petition, he filed interlocutory application seeking to appoint the first respondent's father as her guardian. The said interlocutory application was allowed. Challenging the same,



the first respondent filed revision and the said revision was allowed.

3. Thereafter, the respondents filed maintenance case in M.C.No.35 of 2017 before the Judicial Magistrate Court, Thiruthuraipoondi seeking maintenance of Rs.20,000/- per month for the first respondent and Rs.15,000/- per month for the second respondent and also filed and CrI.M.P.No.1591 of 2018 in M.C.No.35 of 2017 seeking interim maintenance of Rs.20,000/- per month for the first respondent and Rs.15,000/- per month for the second respondent.

4. After adjudication, vide order dated 22.05.2018 made in CrI.M.P.No.1591 of 2018 in M.C.No.35 of 2017, the learned Judicial Magistrate, Thiruthuraipoondi, awarded a sum of Rs.10,000/- each per month towards interim maintenance in favour of the respondents. Aggrieved by the same, the petitioner has filed this revision.

5. The learned counsel appearing for the petitioner submitted that the amount awarded towards interim maintenance is highly excessive. He further submitted that the petition seeking divorce filed by the petitioner ended in favour of the petitioner and divorce was granted. Aggrieved by the same, the first respondent filed C.M.A.No.570 of 2020 before the Hon'ble Division Bench of this Court and this Court vide order dated 03.11.2020 set aside the order of divorce and challenging the same, the petitioner has filed S.L.P. No.5451 of 2021 before the Hon'ble Apex Court.

6. The learned counsel appearing for the petitioner further submitted that the petitioner, without prejudice to his rights, is ready to deposit the entire award amount awarded towards interim maintenance in favour of the respondents and further submitted that this Court may permit the petitioner to canvass all the grounds before the trial Court in the maintenance case petition.

7. The learned counsel appearing for the respondents raise no serious objection for the request made by the learned counsel appearing for the petitioner.

8. In view of the above, this Court directs the petitioner to deposit the entire arrears amount to the credit of M.C.No.35 of 2017, before the learned Judicial Magistrate, Thiruthuraipoondi, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order. This Court permits the petitioner to raise all the grounds before the learned Judicial Magistrate, Thiruthuraipoondi, at the time of hearing in M.C.No.35 of 2017.



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9.This revision is accordingly disposed of.
Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Thiruthuraipoondi.

Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to M/s.V.Balasubramanian & Associates, Advocate SR.No.44058

+1cc to Mr.M.Dhanabala Krishnan, Advocate SR.No.44489

Cr1.R.C.No.807 of 2018
And
Cr1.M.P.No.9174 of 2018

SRA(CO)
RVM(24/09/2021)