



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Monday, the Second day of August
Two Thousand and Twenty One

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.7273 of 2021

IN CRL OP.4909/2021

S.KAMESH KANNAN

.. Petitioner/ Petitioner

Vs

1 G.SUMITHRA DEVI

2 KAYRA RABIA NADAR

(MINOR REP. BY MOTHER G.SUMITHRA DEVI),

.. Respondents/ Respondents

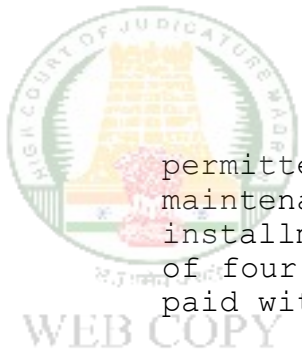
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to extend the time granted in order dated 11/03/2021 made in Crl.O.P.No.4909 of 2021 for making the deposit of the arrears.

Prayer in CRL OP.4909/2021:

Petition filed under Article 482 of code of Criminal Procedure Code Praying that this Hon'ble Court may be pleased to set-aside the order dated 07.01.2021 made in Crl.M.P.No.29 of 2020 in MC.No.36 of 2015 on the file of the Judicial Magistrate Additional Mahila at Alandur in so far as the onerous condition to pay 60 percent of the arrears of maintenance amount is concerned by allowing this criminal original petition.

Order : This petition coming on for hearing on this day upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.A.V.ARUN, Advocate for the petitioner,the court made the following order:-

The respondents are the wife and minor son of the petitioner. The petitioner earlier moved Crl.O.P. No.4909 of 2021 before this Court to set aside the order dated 07.01.2021, in Crl.M.P. No.29 of 2020 in M.C. No.36 of 2015. This Court, by order dated 11.03.2021, disposed of Crl.O.P. No. 4909 of 2021, by considering the petitioner's plea and



permitted the petitioner to pay 60% of the arrears of maintenance as directed by the Court below in two installments. The first installment to be paid within a period of four weeks from 11.03.2021 and the second installment to be paid within a period of four weeks thereafter.

2. Learned counsel appearing for the petitioner submits that as per the order of this Court, the due date for payment of first installment is 08.04.2021. He further submits that the petitioner was unable to mobilize the amount on that day and with great difficulty he mobilized the amount a day later. Since 10.04.2021 and 11.04.2021 being Saturday and Sunday and 12.04.2021 to 14.04.2021 were declared holidays, the amount could not be deposited before the lower Court. On 15.04.2021, as soon as the Courts reopened, the petitioner after serving notice to the respondents who endorsed with no objection, attempted to deposit the amount. The learned Chief Judicial Magistrate, Ramanathapuram, refused to receive the same for the reason that the date stipulated by this Court had already expired. Learned counsel for the petitioner further submits that the second installment could not be deposited since the first installment is yet to be received by the learned Judge. Now the petitioner submits that he is ready to pay both the installments in a single stretch by way of Demand Draft. According to the petitioner, 60% of the arrears of maintenance amounts to Rs.3,36,000/-.

3. In view of the above submissions, this Court is inclined to extend the time already granted by this Court in CrI.O.P. No. 4909 of 2021 dated 11.06.2021. The petitioner is permitted to handover the entire 60% of the arrears of maintenance in a single stretch, within a period of one week from the date of receipt of a copy of this order and the same to be accepted by the lower Court. Accordingly, this criminal miscellaneous petition is ordered.

Sd/-
Assistant Registrar(CS IV)

//True Copy// Sub Assistant Registrar

TO

1. THE CHIEF JUDICIAL MAGISTRATE, RAMANATHAPURAM
 2. THE JUDICIAL MAGISTRATE ADDITIONAL MAHILA AT ALANDUR
- +1cc to Mr.A.V.Arun, Advocate SR.No. 37310(05/08/2021)

Dated :02/08/2021
Order
in
CRL MP.7273/2021
in
CRL OP.4909/2021