



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2021

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Criminal Revision Case No.820 of 2020
and
Crl.M.P.No.5770 of 2020

P.Yoganandhan	... Petitioner/1 st respondent/ 1 st respondent
	Vs.
Kanimozhi	...Respondent/Petitioner/ Petitioner

Prayer : Criminal Revision filed under Section 397 read with 401 of Criminal Procedure Code, praying to set aside the order dated 04.09.2020 made in C.M.P.No.765 of 2020 in D.V.O.P.No.71 of 2018 on the file of Judicial Magistrate Court, Additional Mahila Court (Magisterial Level), Salem.

For Petitioner : Mr.R.Nalliyappan

For Respondent : Mr.K.R.Samrat

ORDER

(The case has been heard through video conference)

This Criminal Revision has been filed against order dated 04.09.2020 made in C.M.P.No.765 of 2020 in D.V.O.P.No.71 of 2018 on the file of the Judicial Magistrate Court, Additional Mahila Court (Magisterial Legal), Salem.

2. The petitioner is the husband and the respondent is wife. The respondent had filed a petition under the Domestic Violence Act in D.V.O.P. No.71 of 2018 before the Judicial Magistrate (Additional Magistrate Court, Salem) in which, the respondent/wife had filed a petition CMP No.2354 of 2018 for interim maintenance and learned Magistrate directed the petitioner /husband to pay a sum of Rs.30,000/- per month to the respondent/wife as interim maintenance by order dated 21.03.2019. In furtherance, the respondent/wife had filed a



petition in CMP No.765 of 2020 in which the learned Magistrate ordered a sum of Rs.50,000/- as interim maintenance to the petitioner and her two minor children by order dated 06.01.2020. But the petitioner / husband did not obey the order of the Court and not paid the arrears amounts of interim maintenance and thereby, the petitioner filed a petition in C.M.P.No.765 of 2020 for attaching the property of the petitioner/husband in which, the learned Magistrate passed an impugned order of attachment for the arrears of maintenance amount ordered by the Court. Challenging the said order, the petitioner /husband has filed the present revision before this Court.

3. The learned Counsel for the petitioner/husband would submit that the Magistrate, Salem, has no power to direct the District Collector, Coimbatore, for attachment of property under the Land Revenue Act. Only the Magistrate within the jurisdiction can attach the property. Therefore, the order is liable to be set aside.

4. The learned Counsel for the respondent/wife would submit that the petitioner was protracting the matter and since, he did not obey neither the order of the High Court nor the order of the Magistrate and there is no violation of the Act in the impugned order passed by the learned Magistrate. The learned Magistrate has passed the order within his powers.

5. Heard the learned Counsel for the petitioner and the learned Counsel for the respondent and perused the materials on record.

6. The Magistrate, had ordered interim maintenance of Rs.50,000/- per month and since, the petitioner did not comply with the order of the Court regarding payment of interim maintenance, the Court had no other option except to pass the impugned order directing the District Collector to attach the property of the petitioner / husband.

7. Considering the facts and circumstances of the case and that the matter is between husband and wife and the order is regarding maintenance amount, this Court does not find any perversity in the order. Therefore, the Criminal Revision is dismissed.

8. However, if the petitioner/husband deposits the entire arrears amount, the learned Magistrate can raise the attachment



order in accordance with law.

9. With the above directions, this Criminal Revision Case is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Judicial Magistrate Court,
Additional Mahila Court (Magisterial Level),
Salem.

+lcc to Mr.K.R.Sampratt, Advocate, S.R.No.44763

Criminal Revision Case No.820 of 2020

PMK (CO)
SU(08/10/2021)