



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Sixteenth day of November Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.11520 of 2021

IN CRL.R.C.No.756 of 2021

1 LATHA @ SHREE LATHA

[PETITIONERS]

2 MINOR, HASHVA MITHRAN

MINOR REP BY HIS MOTHER AND NATURAL GUARDIAN

LATHA @ SHREE LATHA

Vs

D.SURENDRAN

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to pass an interim order directing to pay the 1st petitioner for herself and the 2nd petitioner/minor child, Rs.9 lakhs deposited by the respondent towards part of arrears of maintenance lying to the credit of M.C.NO. 30/2014 on the file of the learned Chief Judicial Magistrate, Tiruppur, pending disposal of the above Crl.R.C.756 of 2021 and thus render justice.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.P.M.DURAI SWAMY, Advocate for the Petitioners the court made the following order:-

This Criminal Miscellaneous Petition has been filed seeking interim direction to pay the petitioners, a sum of Rs.9,00,000/- (Rupees Nine Lakhs) deposited by the respondent towards part of arrears of maintenance amount lying in the credit of M.C.No.30 of 2014 on the file of the Chief Judicial Magistrate, Tiruppur, pending disposal of the Criminal Revision Petition.



2. Learned counsel for the petitioners would submit that the petitioners have filed M.C.No.30 of 2014 on the file of the Chief Judicial Magistrate, Tiruppur, seeking maintenance from the respondent. The trial court vide order dated 14.02.2018, directed the respondent to pay Rs.20,000/- per month each to the petitioners. Against the order passed by the trial court, the respondent has filed C.R.P.No.11 of 2018 on the file of the I Additional District and Sessions Court, Tiruppur and the lower Revisional Court by an order dated 23.03.2021, modified the maintenance amount and directed the respondent to pay Rs.20,000/- to the first petitioner and Rs.10,000/- to the second petitioner. The petitioners have filed the present Criminal Revision Petition seeking to set aside the order of modification of the maintenance amount. The respondent has also filed Crl.O.P.No.8928 of 2021 before this Court against the order in C.R.P.No.11 of 2018 by the I Additional District and Sessions Court, Tiruppur and this Court passed a conditional order, directing the respondent to deposit Rs.5,00,000/- to the credit of M.C.No.30 of 2014 on the file of the Chief Judicial Magistrate Court, Tiruppur and also directed the respondent to pay a sum of Rs.15,000/- per month to the petitioners.

3. Learned counsel for the petitioners would further submit that based on the order passed by the trial court, the total arrears of amount as on today is Rs.35,60,000/- and as per the modified order of the revisional court, the arrears of amount as on date is Rs.26,70,000/-. The respondent has deposited only Rs.9,00,000/- before the trial court. The petitioners are suffering without any maintenance amount. Thereby, the present Criminal Miscellaneous Petition has been filed seeking to direct the petitioners to withdraw arrear amount which is lying in the credit of M.C.No.30 of 2014 on the file of the trial court.

4. Based on the order passed by the trial court, arrears of amount as on today is Rs.35,60,000/- and as per the modified order, arrears of amount as on date is Rs.26,70,000/-, and the respondent has totally deposited only Rs.9,00,000/- before the trial court. The maintenance case is of the year 2014. It is submitted that the petitioners have not been paid any interim maintenance till date.

5. The Bombay High Court in Smt. Sushila Viresh Chhadva vs Viresh Nagshi Chhadva (1995 SCC OnLine Bom 315), has held as under:-

"7. In enacting section 24, a special provision is made for ordering interim maintenance and the expenses of litigation to be provided for the contesting husband and wife if he or she had no independent sufficient income. The very purpose of an order under section 24 would be frustrated if the matter of granting interim maintenance and of providing the requisite expenses for the conduct of the proceedings itself is deferred till the final stage of the



proceeding. The direction for interim alimony and expenses of litigation under section 24 is one of urgency and it must be decided as soon as it is raised and then only the other matters in controversy can be gone into. The object of section 24 is to provide a monthly income and expenses of the litigation to an indigent spouse to enable it to prosecute or defend the proceeding under the Act and the law sees that nobody is disabled from prosecuting or defending the matrimonial case by starvation or lack of funds. It is true that the Court exercises wide discretion in the matter of granting maintenance pendente lite, but the discretion is judicial and not arbitrary and capricious. In my opinion, therefore, the Family Court was in error in rejecting the interim application of the wife."

6. In view of the above, this Court is of the opinion that the petitioners having been not paid the maintenance till date, they may be permitted to withdraw the amount which is lying to the credit of M.C.No.30 of 2014 on the file of the Chief Judicial Magistrate Court, Tiruppur, by filing appropriate petition.

7. With the aforesaid direction, the Criminal Miscellaneous Petition is disposed of.

-sd/-
16/11/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUPPUR.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR.



+1 C.C. to M/S.P.M.DURAI SWAMY
charges SR.NO.12844

Advocate on payment of necessary

WEB COPY

Order

in
CRL MP.11520/2021
in
CRL RC.756/2021

Date :16/11/2021

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JPA 23/11/2021