



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.21435 of 2021

Senthilkumar

... Petitioner

Versus

1.Raja Prabha

2.Minor Ravishroshan

rep by her Mother and natural

Guardian Raja Prabha

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the learned Family Court, Perambalur, to dispose the petition filed in Crl.M.P.No.139 of 2021, within a time limit to be fixed by this Court.

For Petitioner : Mr. M.Vijayaragavan

O R D E R

This petition has been filed to direct the learned Family Court, Perambalur, to dispose the petition filed in Crl.M.P. No.139 of 2021, within a time limit to be fixed by this Court.

2.The grievance of the petitioner is that his estranged wife has filed a maintenance petition in M.C.No.14 of 2016 before the learned Chief Judicial Magistrate Court, Perambalur and an exparte order was passed in the said petition. Later, when the petitioner came to know about the exparte order, filed a petition to set aside the exparte order along with condone delay petition in Crl.M.P.No.139 of 2021 on 06.08.2021. The Lower Court had not proceeded with this petition and kept it pending. However, in the meanwhile, the Lower Court proceeded with Crl.M.P.No.50 of 2021, which was filed on 03.02.2021 for executing the exparte order and passed an order dated 28.10.2021.

3. The grievance of the petitioner is that keeping the set aside petition pending and proceeding with the execution of the



exparte order is not a proper one. Since the set aside petition is filed, for whatever reason it may be, the order ought to have been passed in the said petition and thereafter the execution petition may be proceeded.

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4. Considering the same, this Court finds that keep pending of the condone delay petition in Crl.M.P.No.139 of 2021 endlessly is not proper. However, while deciding Crl.M.P.No.139 of 2021, it should not be dismissed on the ground that already an order has been passed in the execution petition in Crl.M.P.No.50 of 2021.

5. In view of the same, the trial Court is directed to take up the condone delay petition in Crl.M.P.No.139 of 2021 and consider the same on merits. Thereafter, the set aside petition may also be numbered depending upon the order to be passed in the condone delay petition and decide the case on merits. The Lower Court shall not cite the orders passed in the execution petition as a reason for rejecting the Crl.M.P.No.139 of 2021. The Lower Court is directed to dispose of the above petitions within a period of two weeks from the date of receipt of a copy of this order.

6. With the above directions, this Criminal Original Petition is disposed of.

SD/-

ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

dna/skr

To

The Judge,
Family Court,
Perambalur.

+1cc to Mr.M.Vijayaragavan, Advocate Sr.60450

Crl.O.P.No.21435 of 2021

gpl[col]
srg 17/12/2021