



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.O.P.NO.30807 OF 2019

AND

CRL.M.P.NOS.16703 AND 16704 OF 2019

E.Nagarajan

... Petitioner

Vs.

1.N.Suseela

2.The Inspector of Police (L&O),
All Women Police Station,
Guidyatham, Vellore 632 302.

... Respondents

Prayer:

Petition filed under Section 482 of Cr.P.C., to set aside the order of the V Additional Family Court dated 26.10.2018 in M.P.NO.437 of 2015 in M.C.No.319 of 1993.

For petitioner : Mrs.Kirthika for Mr.L.Prabakaran

For R2 : Mr.A.Gopinath
Government Advocate (Criminal Side)

O R D E R

The petitioner has filed this petition to set aside the order of the V Additional Family Court dated 26.10.2018, in M.P.NO.437 of 2015 in M.C.No.319 of 1993.

2. The case of the petitioner is that the petitioner is the husband of the 1st respondent. The 1st respondent wife has filed a maintenance petition in M.C.No.319 of 1993, on the file of the I Additional Family Court, Chennai and the said petition, after adjudication, came to be ordered and maintenance amount of Rs.400/- per month was awarded to the 1st respondent with effect from 01.09.1993, vide order dated 14.09.1993. Thereafter, the petitioner has filed M.P.No.279 of 2012, for enhancement of maintenance and the same was allowed by the Trial Court by enhancing the maintenance amount from Rs.900/- to Rs.1,500/-



with effect from 26.03.2012, vide order dated 03.07.2013. Further it is alleged that the petitioner has filed M.P.Nos.736 of 2014 and also M.P.No.437 of 2015 in the above said Maintenance Petition for claiming arrears of maintenance. However, the respondent is irregular in the payment of maintenance. Therefore, the V Additional Principal Court, Chennai 600 104, vide order dated 26.10.2018, issued an Arrest Warrant under Section 125(3) Cr.P.C against the petitioner herein, since he failed to pay the arrears of maintenance to his wife, as per the order of the Court. Challenging the same, the present petition is filed.

3. The learned counsel appearing for the petitioner submitted that the petitioner has already paid the entire amount. However, without verifying the records, the Trial Court has issued the arrest warrant and hence the same is not sustainable. Therefore, this Court may issue direction to the Court below to verify the records as to the regular payment of the maintenance amount on an appropriate petition by the petitioner. If the Trial Court finds that the amount is paid, the arrest warrant may be recalled. On the contrary, if any dues are yet to be repaid, the petitioner is ready to make such deposit within a stipulated time as fixed by the Lower Court.

4. In view of the limited prayer sought for by the petitioner, this Court, without going into the merits of the claim projected by the petitioner, issues direction to the petitioner to file an appropriate Petition for clarification before the Trial Court to recall the warrant and the Trial Court shall verify the materials produced by the petitioner herein, as to the regular payment of maintenance amount, as ordered by the Trial Court and pass orders accordingly and if it is found that the maintenance amount is not paid in full as per the orders of the Court below, the Trial Court shall pass appropriate order for such payment, if any, to be made by the petitioner. The petitioner, as undertaken before this Court, shall make deposit of such amount to the credit of his wife / 1st respondent, within a period of four weeks from the date of the order of the Trial Court.

5. This Criminal Original Petition is disposed of with the aforesaid direction. Consequently, connected miscellaneous petitions, if any, are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar



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To

1. The Inspector of Police (L&O),
All Women Police Station,
Guidyatham, Vellore 632 302.
2. V Additional Family Court, Chennai.
3. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+1cc to Mr.L.Prabakaran, Advocate, S.R.No.46758

Crl.O.P.No.30807 of 2019

PCH(CO)
CS/12/10/2021