



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2021

CORAM

THE HONOURABLE MRS.JUSTICE V. BHAVANI SUBBAROYAN

CRL.O.P NO. 18059 OF 2017

AND

CRL.M.P NO. 11011 OF 2017

E.Seenuvasan

...Petitioner

Versus

Eagathammal

...Respondent

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order passed in Criminal Revision Petition No.20/2016, dated 13.06.2017 by the learned Additional District Judge - I, Tindivanam by confirming the order passed in CMP.No.329 of 2016 in M.C.No.1 of 2011 dated 26.05.2016 by the learned Judicial Magistrate No.I, Tindivanam.

For Petitioner: Mr.A.John Britto

For Respondent : Mr.R.Veeramani

ORDER

This petition has been filed to set aside the order passed in Criminal Revision Petition No.20/2016, dated 13.06.2017 by the learned Additional District Judge - I, Tindivanam by confirming the order passed in CMP.No.329 of 2016 in M.C.No.1 of 2011, dated 26.05.2016 by the learned Judicial Magistrate No.I, Tindivanam.

2. The case of the petitioner is that the respondent is the wife of the petitioner and she deserted the petitioner without any reason and living separately on her own wishes. The respondent/wife filed M.C.No.1 of 2011 before the learned Judicial Magistrate No.I, Tindivanam, seeking maintenance from the petitioner. After perusing the records, the Court below has fixed Rs.1,200/- as monthly maintenance for her on 02.06.2011. Subsequently, she has filed CMP.No.3429 of 2011 for realizing



the maintenance amount from the petitioner from the date of filing of petition is 21.01.2011. Thereafter, the petitioner/husband has paid a sum of Rs.18,000/- to her, the arrears for the period from 21.01.2011 to 21.09.2011 on 07.07.2014 and the same was dismissed as withdrawn. Now, the respondent/wife has filed CMP.No.329 of 2016 for recovery of arrears of maintenance of Rs.57,600/- for the period from 22.09.2011 till 21.11.2015 and the same was allowed on 26.05.2016. Aggrieved by the same, the petitioner/husband preferred Criminal Revision Petition No.20 of 2016 before the learned Additional District Judge-I, Tindivanam and the same was dismissed on 13.06.2017 by confirming the Court below. Against that order, the petitioner has filed this Criminal Original Petition.

3. Heard Mr.A.John Britto, learned counsel appearing for the petitioner and Mr.R.Veeramani, learned counsel appearing for the respondent and perused the materials available on record.

4. On perusal of the records, it is seen that the respondent/wife filed a maintenance case in M.C.No.1 of 2011 before the learned Judicial Magistrate No.I, Tindivanam and the same was allowed by directing the petitioner/husband herein to pay a sum of Rs.1,200/- per month as maintenance to the respondent/wife and Rs.800/- to the 3rd petitioner/minor son therein. Subsequently, the respondent herein has filed CMP.No.329/2016 in M.C.No.1 of 2011 before the Judicial Magistrate-I, Tindivanam, u/s.125 (3) r/w 128 of CrPC., seeking arrears of maintenance and the same was allowed by directing the respondent therein to pay the arrears of maintenance for the period from 22.09.2011 to 21.05.2016 (56 months) @ Rs.1200/- per month amounting to Rs.67200/- within two months in default to undergo simple imprisonment for 11 months. As against which the petitioner filed a Revision Petition before this Court in CrI.R.C.No.20 of 2016 and this Court dismissed the same and the order of the Court below stands confirmed. Aggrieved over the same, the petitioner herein has filed this petition for setting aside the CrI.R.C.No.20 of 2016 dated 13.06.2017 by the learned Addl. District Judge, Tindivanam. In the admission stage, this Court was granted an interim stay on condition that the petitioner shall deposit 50% of arrears to the credit of M.C.No.1 of 2011 before the learned Judicial Magistrate No.I, Tindivanam, within a period of eight weeks from 01.09.2017 and the petitioner shall also pay the provisional monthly maintenance of Rs.1000/- directly to the respondent/wife till the disposal of the criminal original petition on or before 5th of every month. But, the petitioner has paid only Rs.18,000/- before the Court below and thereafter, he has not complied with the order passed by this Court on 01.09.2017.



5. It is also seen that the petitioner has not produced any salary slip to show that any loan lending has been deducted from his salary, and there is no material or evidence to show that he has not married one lady and there is no valid reason to pay the arrears of maintenance amount to the respondent/wife herein. Hence, this Court is not inclined to interfere with the order passed by the Court below in Crl.R.C.No.20 of 2016, dated 13.06.2017 by the learned Additional District Judge-I, Tindivanam. Hence, this Criminal Original Petition is liable to be dismissed. However, the petitioner/husband of the respondent is directed to pay the arrears of maintenance for the period from 22.09.2011 to 21.05.2016 (56 months) @ Rs.1,200/- per month amounting to Rs.67,200/- (Rupees Sixty Seven Thousand Two Hundred Only) to the respondent/wife herein within a period of six months from the date of receipt of a copy of this order.

6. With the above direction, Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msm

To

1. The Additional District Judge - I, Tindivanam.
2. The Judicial Magistrate No.I, Tindivanam.

+1cc to Mr.A.John Britto, Advocate, S.R.No.41918
+1cc to Mr.R.Veeramani, Advocate, S.R.No.41649

CRL.O.P No. 18059 of 2017
and
Crl.M.P No. 11011 of 2017

SMI (CO)
PM/08/12/2021