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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.O.P.NO.29167 OF 2018 AND
CRL.M.P.NO.17074 OF 2018 AND
CRL.M.P.NO.7841 OF 2021 AND
CRL.R.C.NO.505 OF 2021

Crl.O.P.No.29167 of 2018:

Rohit Bothra

... Petitioner / Respondent

Vs.

Chethana Bothra

... Respondent / Petitioner

Crl.R.C.No.505 of 2021:

Chethana Bothra

... Petitioner /
Petitioner /Petitioner

Vs.

Rohit Bothra

... Respondent /
Respondent/Respondent

Prayer in Crl.O.P.No.29167 of 2018:

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to set aside the order dated 05.07.2018 in M.P.No.16 of 2015 in M.C.No.331 of 2014 pending on the file of learned 3rd Additional Family Court at Chennai.

Prayer in Crl.R.C.No.505 of 2021 :

Criminal Revision filed under Section 397 read with 401 of Criminal Procedure Code, praying to allow the above petition and order payment of Interim Maintenance as prayed for in M.P.No.16 of 2015 in M.C.No.331 of 2014 by the Honourable Third Additional Family Court at Chennai dated 05.07.2018.



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For Petitioner in Crl.O.P.No.29167/2018

and

For Respondent in Crl.R.C.No.505/2021 : Mr.Vimal B.Crimson

For Respondent in Crl.O.P.No.29167/2018

and

For Petitioner in Crl.R.C.No.505/2021 : Mr.S.Adinarayana Rao

COMMON ORDER

(The case has been heard through video conference)

The petitioner in Crl.O.P.No.29167 of 2018 is husband and respondent is wife. The wife had filed a case in M.C.No.331 of 2014 seeking maintenance against her husband. Pending the above case, the wife had also filed a miscellaneous petition in M.P.No.16 of 2015 seeking interim maintenance of Rs.30,000/- per month. The learned Judge by order dated 05.07.2018 partly allowed the petition and ordered interim maintenance of Rs.15,000/- per month. Against the same, the husband has filed the present criminal original petition and the wife has also filed the present criminal revision case before this Court.

2 Since, the criminal original petition and the criminal revision case have been filed against the same order passed by the III Additional Family Court, Chennai, in M.P.No.16 of 2015, both the matters are hereby disposed of by this common order. For the sake of convenience, the parties are referred to as per their relationship as husband and wife.

3 The scope of maintenance case is very limited and it is nothing but a summary procedure based on the records. If the wife is unable to maintain herself and the husband neglects to maintain the wife, then the wife is entitled for maintenance. In this case, it is seen that the wife had filed the maintenance case in the year 2014 and after one year, since she could not get any fruitful order, she filed the miscellaneous petition seeking interim maintenance. The learned Judge, Family Court, after the laps of three years, partly allowed the petition and passed the order of interim maintenance on 05.07.2018 and keeping the main case still pending, which, according to this Court, is highly condemnable.

4 Since, it is only an order of interim maintenance, that too was ordered after the lapse of three years of filing of the maintenance case, this Court does not find any reason to interfere with the order of interim maintenance.



5 Hence, the criminal original petition stands dismissed. The husband is directed to pay the interim maintenance as ordered by the III Additional Family Court, Chennai.

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6 As far as the criminal revision case is concerned, the III Additional Family Court, Chennai, has ordered interim maintenance by order dated 05.07.2018 and the wife has filed the present revision seeking to order interim maintenance as prayed for by her in the miscellaneous petition in M.P.No.16 of 2015. The wife should have initiated proceedings to execute the order of interim maintenance passed by the learned Judge, Family Court, Chennai and this Court does not find any reason to allow this revision filed by the wife. Therefore, the criminal revision case also shall stand dismissed.

7 However, since the Family Court, Chennai, is keeping the maintenance case pending for more than six years, which is summary in nature, this Court highly condemns the act of the Family Court in not disposing of the maintenance case within a reasonable time and the III Additional Family Court, Chennai, is hereby directed to dispose of the maintenance case in M.C.No.331 of 2014 within a period of two months from the date of receipt of a copy of this order, without any further delay and file a compliance report on the same before this Court.

8 With the above observations and directions, both the criminal original petition and the criminal revision case are dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

The III Additional Family Court
Chennai

Crl.O.P.No.29167 of 2018 and
Crl.M.P.No.17074 of 2018 and
Crl.M.P.No.7841 of 2021 and
Crl.R.C.No.505 of 2021

RSI (CO)
PM/05/10/2021