



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 05.03.2021

Delivered On : 18.03.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.102 of 2020

and Crl.M.P.(MD)No.1508 of 2021

WEB COPY

Rajamanickam

.. Petitioner

Vs.

P.Nageshwari

.. Respondent

Prayer : This criminal revision case filed under Section 397 r/w. Section 401 of Cr.P.C., to call for the records relating to the order dated 03.12.2019 made in Cr.M.P.No.1131 of 2019 in M.C.No.28 of 2018 on the file of the Judicial Magistrate, Manapparai and to set aside the same.

For Petitioner : Mr.K.C.Ramalingam

For Respondent : Ms.M.Indumathi

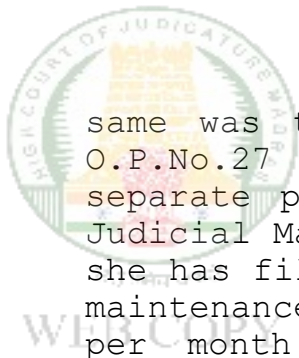
ORDER

This Criminal Revision Case has been filed to set aside the order, dated 03.12.2019 made in Cr.M.P.No.1131 of 2019 in M.C.No.28 of 2018 on the file of the Judicial Magistrate, Manapparai.

2.The revision petitioner is the husband and the respondent is the wife. The respondent filed a petition in Cr.M.P.No.1131 of 2019 in M.C.No.28 of 2018 on the file of the Judicial Magistrate, Manapparai, for claiming maintenance. The trial Court ordered the revision petitioner / husband to pay a sum of Rs.5,000/- towards interim monthly maintenance till the disposal of the Main Maintenance Petition. Against that order, the revision petitioner / husband preferred this Revision.

3.On the side of the revision petitioner, it is stated that the respondent / wife filed a case in S.T.C.No.71 of 2013 under the Domestic Violence Act and she has filed another case in C.C.No.271 of 2012, under the Dowry Prohibition Act, on the file of the Judicial Magistrate, Manapparai and the orders of the Chief Judicial Magistrate, Trichy, both the cases were transferred to the Judicial Magistrate, Musiri and were renumbered as M.C.No.30 of 2015 and C.C.No.117 of 2015. When the case in S.T.C.No.71 of 2013 pending before the Judicial Magistrate, Manapparai, the respondent filed a petition in Cr.M.P.No.326 of 2014 for interim maintenance and the same was allowed by the Judicial Magistrate, Manapparai, on 14.02.2014 and the revision petitioner/ husband was directed to pay Rs.2,000/- per month for monthly maintenance.

4.The revision petitioner/ husband filed a petition in H.M.O.P.No.53 of 2017 before the Principal Sub Court, Trichy and the

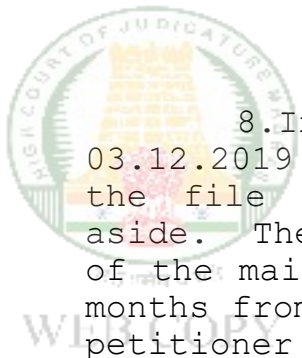


same was transferred to Sub Court, Manapparai and re-numbered as O.P.No.27 of 2019. Subsequently, the respondent / wife filed a separate petition in M.C.No.28 of 2018 for maintenance before the Judicial Magistrate, Manapparai and along with the Maintenance Case, she has filed another petition in Cr.M.P.No.1131 of 2019 for interim maintenance. The respondent / wife is already receiving Rs.2,000/- per month as monthly maintenance and she is further claiming maintenance in M.C.No.28 of 2018 and the interim maintenance petition was allowed by the Judicial Magistrate, Manapparai.

5.The respondent/ wife is working as a Supervisor in the Social Welfare and Nutritious Meal Programme Department, Tiruchirappalli and she is receiving Rs.33,000/- per month as salary and she is also receiving Rs.2,000/- per month from the revision petitioner / husband as interim maintenance. The revision petitioner/ husband was suspended from service from 28.06.2019, based on the complaint lodged by the respondent / wife, as if the husband got a second marriage. The Magistrate failed to note that the son is in the custody of his father / revision petitioner and prayed the impugned order to be set aside.

6.On the side of the respondent, it is stated that the revision petitioner / husband has not filed any counter in Cr.M.P.No.1131 of 2019. Since he was absent, exparte order was passed by the Judicial Magistrate. The respondent / wife is taking steps for the recovery of the arrears amount by filing Cr.M.P.Nos.36 and 38 of 2020 and she is doing temporary employment under the Noon Meal Scheme and is receiving a sum of Rs.11,676/- per month as salary. The revision petitioner / husband married another lady, by name, Amutha and the second wife is working as Office Assistant in Thiyagesar Allai Primary School. The revision petitioner / husband was ordered to pay a sum of Rs.2,000/- per month as maintenance in Cr.M.P.No.326 of 2014 in S.T.C.No.71 of 2013. Against which, the revision petitioner / husband filed a revision in Crl.R.C.No.10 of 2014 before the Principal District Judge, Trichy. That petition was dismissed. The respondent / wife filed a petition under Section 128 (3) for attachment of salary and that petition was allowed, but the Garnishee is not obeying the order of the Court. Only after filing a contempt petition, the Garnishee is sending the amount properly. The revision petitioner / husband is working as a driver in the Block Development Office and he is having two houses and he is having rental income and getting monthly maintenance amount under the Domestic Violence Act is not a bar for getting maintenance in the Maintenance Case and prayed the petition to be dismissed.

7.It is seen that the respondent / wife is receiving a salary of Rs.11,767/- per month and she is working as a temporary employee in the and Noon Meal Scheme. Admittedly, she is receiving Rs.2,000/- per month as interim maintenance from the husband.



8. In the above circumstances, the impugned order, dated 03.12.2019 made in Cr.M.P.No.1131 of 2019 in M.C.No.28 of 2018 on the file of the Judicial Magistrate, Manapparai, is hereby set aside. The Judicial Magistrate, Manapparai, is directed to dispose of the main petition in M.C.No.28 of 2018 within a period of three months from the date of receipt of copy of this order. The revision petitioner is directed to enter his appearance and to file a counter within a period of two weeks.

9. With the above directions, this Criminal Revision Case is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Judicial Magistrate,
Manapparai.

2. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

3. The Section Officer, (2C)
Criminal Records Section,
Madurai Bench of Madras High Court, Madurai.

4. The Registrar Judicial, (Soft Copy)
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.C.RAMALINGAM, Advocate (SR-12116[F] dated 18/03/2021)

Crl. R.C. (MD) No.102 of 2020
18 .03.2021

VR (CO)

KB (29.03.2021) 3P 6C