



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P. (MD)No.546 of 2014

and

M.P. (MD)No.1 of 2014

Ramalingam : Petitioner/ Respondent/
Respondent
Vs.

Radha : Respondent/Petitioner/
Petitioner

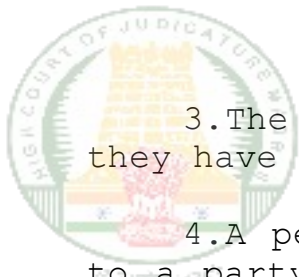
PRAYER:- Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order, dated 30.08.2012 in I.A.No.361 of 2013 in H.M.O.P.No.238 of 2010 on the file of the Subordinate Court, Thoothukudi.

For Petitioner :Mr.K.Chengiz Khan
For Respondent :Mr.N.Dilip Kumar

ORDER

This revision is filed against the order directing the petitioner to make payment of interim maintenance and litigation expenses passed under Section 24 of the Hindu Marriage Act pending disposal of H.M.O.P.No.238 of 2010.

2.The learned Subordinate Judge, Tuticorin, had directed the petitioner to pay a sum of Rs.3,500/- per month as maintenance and Rs.2,500/- as litigation expenses. The only objection of Mr.K.Chengiz Khan, learned Counsel for the petitioner, is that the respondent/wife had already filed proceedings under Section 125 of Cr.P.C. in Crl.M.P.No.4 of 2011 before the Chief Judicial Magistrate Court, Tuticorin and an order has been passed on 02.06.2011 directing the petitioner to pay a sum of Rs.6,000/- towards monthly maintenance and he has also been complying with the said order without any default. He would also point out that in the application filed under Section 24 of the Hindu Marriage Act, the respondent/wife had suppressed the order passed under Section 125 of Cr.P.C.



3.The learned Counsel for the respondent would submit that they have no instruction from the respondent.

4.A perusal of Section 127 of Cr.P.C., shows that it is open to a party, who had suffered an order for payment of maintenance under Section 125 of Cr.P.C., to seek cancellation or modification of the order passed, if a subsequent decision of competent Civil Court entitles him to do so.

5.Section 127(2) of Cr.P.C., reads as follows:

"127. Alteration in allowance.

.....

(2) Where it appears to the Magistrate that, in consequence of any decision of a competent civil court, any order made under section 125 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly."

6.In view of the same, while dismissing the revision, I leave it open to the petitioner to approach the Chief Judicial Magistrate seeking cancellation of the order for maintenance passed under Section 125 Cr.P.C., in view of the subsequent decision of the competent Civil Court made in I.A.No.361 of 2013 in H.M.O.P.No.238 of 2010. If such an application is filed, the learned Chief Judicial Magistrate is directed to hear and dispose of the same in accordance with law. Till such time the application is heard, the petitioner shall be liable to pay the maintenance as fixed by the learned Chief Judicial Magistrate, Tuticorin under Section 125 of Cr.P.C. No coercive proceedings shall be permitted for non compliance of the order of the Civil Court, which is impugned in this revision.

7.Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1.The Subordinate Judge,
Thoothukudi.

2.The Section Officer-2 copies
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.G.PRABHU RAJADURAI, Advocate (SR-484[F] dated
07/01/2021)

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