



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.11.2021

CORAM :

WEB COPY

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

CrI.OP(MD)No.21634 of 2018 &
CrI.MP(MD)No.10020 of 2018

Thiyagarajan ... Petitioner/4th Respondent/
4th Respondent

Vs.

1.The Principal,
Government Arts College for Women,
Salem. ... 1st Respondent/3rd party/3rd party

2.Valliammai ... 2nd Respondent/Petitioner/Petitioner

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to set aside the impugned warrant dated 03.08.2018 issued against the petitioner by the Principal District Munsif cum Judicial Magistrate, Karaikudi in Cr.MP.No.2315 of 2017 in MC.No.43 of 2014 to enforce the payment of maintenance by attachment and sale.

For Petitioner: Mr.T.Antony Arul Raj

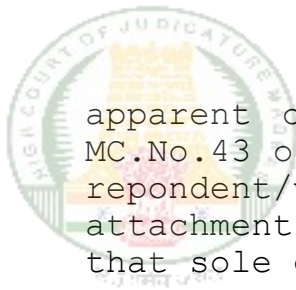
For R1 : Mr.M.Muthumanikkam,
Counsel for Govt. of Tamil Nadu,
(Criminal Side)

For R2 : No appearance

ORDER

This petition has been filed to set aside the warrant that has been issued in Cr.MP.No.2315 of 2017 in MC.No.43 of 2014 by the Principal District Munsif cum Judicial Magistrate, Karaikudi.

2. The learned counsel for the petitioner would submit that the second respondent/wife filed MC.No.43 of 2014 against her husband namely, Srinivasan, who is the brother of the petitioner herein. The petitioner was arrayed as fourth respondent in MC.No.43 of 2014. At the time of filing the main petition itself, this petitioner's name has been deleted from the array of parties by the Advocate who appeared for the second respondent/wife on 25.12.2016, however, without noticing the same, the Trial Court has taken cognizance and issued notice to all the respondents, which is nothing but an error



apparent on the face of record. Based upon the order passed in MC.No.43 of 2014, Cr.MP.No.2315 of 2017 has been filed by the second respondent/wife to recover the maintenance amount, in which, attachment order has been passed against this petitioner. Only on that sole ground, this petition came to be filed.

WEB COPY

3. Heard the learned counsel for the petitioner, the learned Government Advocate for the first respondent and perused the records.

4. As contended by the learned counsel appearing for the petitioner, it is an error apparent on the face of record, since this petitioner's name has been deleted from the array of parties as early as on 25.12.2016. It appears that, without noticing the same, an order has been passed by the Trial Court, based upon which, attachment order has also been passed. Since it is an error committed by the Trial Court, the warrant that has been issued against this petitioner in Cr.MP.No.2315 of 2017 is alone hereby set aside. The Trial Court shall proceed against the other respondents in the main petition.

5. In the result, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mbi

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 Principal District Munsif cum Judicial Magistrate, Karaikudi

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Cr1.O.P. (MD) No.21634 of 2018
26.11.2021

na (CO)

TR(08.12.2021) 2P 3C