



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	12.03.2021
DELIVERED ON	25.03.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

Crl.RC(MD)No. 748 of 2016

U. Kameswaran ...Petitioner/Appellant/R-1

Vs.

A. Malarvizhi ...Respondent/Respondent/Petitioner

PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code, to set aside the order, dated 08.08.2016 made in Crl.A. No.6 of 2015 on the file of the learned Additional District Sessions Judge, Dindigul, confirming the order passed by the learned Judicial Magistrate, Nilakkottai, dated 28.10.2014 made in M.C. No. 27 of 2014 and allow the revision case.

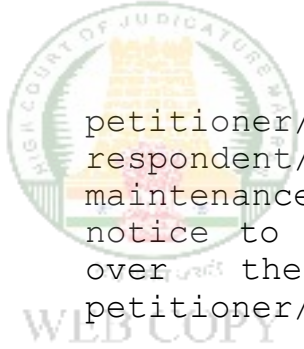
For Petitioner : Mr. Aathiyaan
for Mr.J. Lawrance

For Respondent : Mr. H.Lakshmi Shankar

O R D E R

This Criminal Revision Case has been filed by the revision petitioner to set aside the order, dated 08.08.2016 in Crl.A. No.6 of 2015, passed by the learned Additional District Sessions Judge, Dindigul, confirming the order, dated 28.10.2014 in M.C. No. 27 of 2014 passed by the learned Judicial Magistrate, Nilakkottai.

2. The revision petitioner herein is husband of the respondent herein. The brief fact of the case is that the marriage between the petitioner and the respondent was solemnized at Ganesh Mahal, Batlagundu on 08.03.2013. After marriage, the revision petitioner unnecessarily picked up quarrel with the petitioner. The respondent/wife harassed, tortured by the petitioner/husband by demanding huge dowry. The respondent/wife was driven out from the matrimonial home and living with her parents. In the meantime, the respondent/wife has filed a complaint against the petitioner/husband and in-laws in Crl.MP.No.11663 of 2014 under the Domestic Violence Act, before the learned Judicial Magistrate, Nilakottai and the said complaint was taken on file. After recording sworn statement of the respondent/wife by the learned Magistrate has passed an exparte order of interim maintenance on 28.10.2014, by directing the



petitioner/husband to pay a sum of Rs.5,000/-per month to the respondent/wife till disposal of the petition towards interim maintenance on the date of complaint on file itself and also issued notice to the petitioner herein and other respondents. Aggrieved over the said order, dated 28.10.2014, the revision petitioner/husband is before this Court.

3. The learned counsel appearing for the revision petitioner/husband contended that without hearing the revision petitioner, the Courts below have passed the impugned order granting Rs.5,000/-per month as maintenance to the respondent/wife and hence, the impugned order is liable to be set aside. He further contended that the Courts below have failed to consider that the respondent/wife is entitled to claim maintenance only under Section 125 of Cr.P.C., and not under the Domestic Violence Act. Hence, prays to allow this revision case.

4. The learned counsel appearing for the respondent/wife submitted that now she is residing with her parents. He further submitted that there is a specific provision under Section 20 of Domestic violence Act, deals about the monetary relief which includes the loss of earning, medical expenses, the loss caused to the destruction, damage or removal of any property from the control of aggrieved person and the maintenance for the aggrieved person as well as her children. He further submitted that there is no illegality in the exparte order of maintenance passed by the learned Magistrate. Hence, he prays to dismiss this revision case.

5. Heard the learned Counsel appearing for the petitioner/husband and the learned counsel appearing for the respondent/wife and perused the material documents available on record.

6. The revision petitioner/husband has filed this Criminal revision case to set aside the order, dated 08.08.2016 in CrI.A. No.6 of 2015, passed by the learned Additional District Sessions Judge, Dindigul, confirming the order, dated 28.10.2014 in M.C. No. 27 of 2014 passed by the learned Judicial Magistrate, Nilakkottai.

7. The respondent/petitioner had filed a petition in M.C. No. 27 of 2014 for the offence under Sections 18 & 19 of Domestic Violence Act in CrI.M.P.No.11663 of 2014 seeking interim maintenance. The petitioner/husband has failed to appear before the learned Magistrate and hence, an interim maintenance for Rs.5,000/-per month was ordered from the date of petition.

8. The petitioner/R-1 had not filed any petition to set aside the order, dated 28.10.2014 passed by the learned Magistrate. He directly filed this revision case before this Court. Further, it is only an interim order and no final order was passed. The interim maintenance amount of Rs.5,000/- is very meagre one. Therefore, this Court has no valid reason to interfere with the findings of the

learned Judicial Magistrate, Nilakottai.

9. Finally, the Criminal Revision Case stands dismissed and the order, dated 08.08.2016 in CrI.A. No.6 of 2015, passed by the learned Additional District Sessions Judge, Dindigul, confirming the order, dated 28.10.2014 in M.C. No. 27 of 2014 passed by the learned Judicial Magistrate, Nilakkottai, are hereby confirmed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

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Sub Assistant Registrar(CS)

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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 Additional District Sessions Judge, Dindigul.

2. The Judicial Magistrate, Nilakkottai.

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

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

+1 CC to M/s.J.LAWRANCE, Advocate (SR-13741[F] dated 25/03/2021)

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-13825[F] dated 26/03/2021)

**Order made in
CrI.RC(MD)No. 748 of 2016**

25.03.2021