



CrI.O.P.No.11196 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2022

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.11196 of 2019

and

CrI.M.P.No.10575 of 2019

P.G. Karthikeyan

... Petitioner

Vs.

1.V.Hema Latha

2.Minor K. Vijai

... Respondents

Prayer: Criminal Original Petition is filed under section 482 of CR.P.C., to set aside the impugned order dated 01.12.2018, in C.M.P.No.1359 of 2018 in unnumbered CrI.R.C.No...of 2018 and consequently condone the delay of 3 days and direct the learned District Court to number the said criminal revision petition and consider the same on merits.



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For Petitioner : Mr.V. Pushpa

For Respondents : Mr.S. Bharanidharan
for Mr.B.M. Subash

ORDER

This petition is filed to set aside the impugned order dated 01.12.2018, in C.M.P.No.1359 of 2018 in unnumbered Crl.R.C.No...of 2018 and consequently condone the delay of 3 days and direct the learned District Court to number the said criminal revision petition.

2. The petitioner herein is the husband and father of respondents 1 and 2 respectively.

3. The Maintenance Case No.6 of 2014, filed on 03.03.2014 by the respondents seeking maintenance, pending HMOP.No.92 of 2011 filed for restoration of conjugal rights. After a serious contest, the learned Judicial Magistrate has passed an order on 20.04.2019, directing the



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petitioner herein to pay a sum of Rs.7,500/- each to the respondents 1 and 2 from the date of filing the petition. The said amount was fixed, based on the monthly income of the petitioner herein earned as a Teacher, in a Government School. Challenging this order, the petitioner has preferred a revision.

4. When the conditional order was passed, which was not complied and the same was dismissed. As against which the present Crl.O.P., is filed. Earlier when the matter came up for consideration, this Court on considering the facts and the total arrears of maintenance till July 2019 workout to Rs.9.90 lakhs and the petitioner had deposited only Rs.2.81 lakhs as on that day, directed the petitioner herein to deposit 50% of the balance arrears, which works out to Rs.3,54,000/-. It also permitted the petitioner to pay a sum in instalment, first Rs.1 lakh initially on or before 19.08.2019 and posted the matter on 20.08.2019 to give further time to pay balance maintenance.



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5. When the matter was again listed on 22.08.2019, this Court being satisfied that the petitioner, has deposited Rs.1 lakhs as ordered earlier, the matter was referred to Mediation Centre to resolve the dispute amicably. Thereafter, there was no progress in the Mediation.

6. When the matter was taken up on 21.06.2022, the learned counsel for the petitioner sought for condonation of three days delay in filing the revision petition. Whereas, the same was opposed by the learned counsel for the respondent stating that three years ago when the matter came up for consideration, Court directed the petitioner herein to deposit Rs.1 lakh and go for Mediation, with an observation that the petitioner has to deposit atleast 50% of the arrears and the initial Rs.1 lakh to show bonafide for referring the matter to mediation. The petitioner deposited only Rs.1 lakh and thereafter, neither cooperated for mediation nor paid the balance amount. This was denied by the learned counsel appearing for the petitioner. Hence, the Court directed the parties to file statement.



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7. Accordingly, today learned counsel for the petitioner as well as the respondents have furnished the respective statements regarding payment of arrears. According to the statement produced by the learned counsel for the petitioner, apart from Rs.2.81 lakhs which was paid before the matter seized off before this Court, the petitioner has further paid Rs.3.54 lakhs. This is equivalent to 50% of the arrears which was due and payable as on July 2019. The last payment made by the petitioner is on 01.07.2022. A sum of Rs.44,000/- paid subsequent to the direction passed by this Court on 21.06.2022. So it is clear as crystal that the petitioner herein has obtained an interim order, with a specific condition that he should deposit 50% of the arrears as on July 2019 i.e., Rs.3,54,000/- but had taken his own time to pay that 50%. Nearly 4 years lapsed by now. As on date, the actual arrears comes around Rs.12 lakhs after deducting the amount paid so far. Since Rs.18 lakhs sought to have been paid as maintenance in the past 9 years. It is admitted by the petitioner that out of total maintenance supposed to be paid in the past 10 years, he has paid only Rs.3.54 lakhs in addition to Rs.2.81 lakhs paid prior to the order passed by this Court on 05.08.2019.



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8. This Court finds that having come to Court belatedly and taking the Court time, the petitioner has conveniently deprived his wife and child of their lawful maintenance. This Court finds no reason to keep this matter pending any further, hence, the petition filed with a delay and *malafide*, deserves to be dismissed. Accordingly, the criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

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AT

Internet : Yes

Index : Yes/No

Speaking / Non-speaking



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Dr.G.JAYACHANDRAN,J.

AT

To
1.The Judicial Magistrate, Bhavani.

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