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Crl.M.P.No.2515 of 2022 in
Crl.R.C.No.1376 of 2017

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Crl.RC.No.1376 of 2017

M.NIRMAL KUMAR.J.

The petitioner, who is the estranged husband of the respondent, has filed the Criminal Miscellaneous Petition to set aside the order of dismissal dated 14.02.2020 passed in Crl.R.C.No.1376 of 2017 and to restore the same.

2.The respondent filed a Maintenance Petition in F.C.M.C.No.37 of 2016 on the ground that she is unable to maintain herself and depending on her parents for her daily needs and further, she made an averments that the petitioner received a salary of Rs.70,000/- being the Branch Manager of a Nationalised Bank viz., Indian Bank, Dharmapuri.

3.According to the petitioner, the respondent examined herself as PW1 and three documents marked as Exs.P1 to P3. Thereafter, at the stage of cross examination, the petition was allowed and the petitioner was set exparte, since the petitioner not cross examined PW1 and kept the



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Maintenance Case Pending. Thereafter, the petitioner filed F.C.CMP.No.29 of 2017 to set aside the exparte order. At the time of passing that order, the petitioner was hospitalised and undergone Liver surgery. Hence, he could not appear before the lower Court and the lower Court allowed the petition, against which, he filed the Criminal Revision Petition in Crl.R.C.No.1376 of 2008 and the same was dismissed for default by this Court on 14.02.2020. Hence, he has filed the present petition in Crl.M.P.No.2515 of 2022 to set aside the dismissal order in Crl.R.C.No.1376 of 2017 dated 14.02.2020.

4.Counsel for the respondent submitted that the petitioner employed as a Branch Manager in a nationalised bank and he is earning more than Rs.1,00,000/- , he deserted his wife and his wife is now struggling for her daily needs without any income and she is depending on her parents. For the past 5 years, he has not paid even one rupee.

5.Counsel for the petitioner submitted that the petitioner has got a good case on merits and without prejudice to his rights in the main case, he is willing to deposit a part amount of Rs.5,00,000/-. Further, submitted that



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this amount can be handed over to the respondent, with condition the respondent shall file an affidavit submitting that receipt of Rs.5,00,000/- is subject to the outcome of the main case in Crl.R.C.No.1376 of 2017. Further, payment of Rs.5,00,000/- not to be construed as admitting or diluting his case and defence in the maintenance case in any manner. The maintenance case to be decided independently uninfluenced by this payment.

6.In view of the above, this Court is inclined to set aside the order in Crl.R.C.No.1376 of 2017 on 14.02.2020 and the Criminal Miscellaneous Petition is allowed.

7.Registry to list the main Criminal Revision No.1376 of 2017 on **21.04.2022**. In the meanwhile, the counsel for the petitioner to produce demand draft for Rs.5,00,000/- in the name of the respondent on that date.

sms

07.04.2022

Note: Issue order copy on 07.04.2022



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