



WEB COPY



Crl.R.C.No.1456 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1456 of 2022

K.John Richard

... Petitioner

Versus

J.Grace Jennifer Rohini

... Respondent

Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code to set aside the order dated 28.02.2022 made in M.P.No.346 of 2021 in M.C.No.209 of 2022 on the file of the II Additional Family Court, Chennai.

For Petitioner : Mr.P.Gunaraj
For Respondent : Mr.S.Chakkaravarthi

ORDER

This Criminal Revision Case has been preferred challenging the order dated 28.02.2022 made in M.P.No.346 of 2021 in M.C.No.209 of 2022 on the file of the II Additional Family Court, Chennai.

2.The petitioner is the husband and the respondent is the wife. The



respondent/wife filed a maintenance case in M.C.No.209 of 2020 before the Family Court, Chennai, seeking maintenance for a sum of Rs.40,000/- per month. Pending maintenance case, the respondent filed a petition under Section 125(2) Cr.P.C in M.P.No.346 of 2021 before the II Additional Family Court, Chennai, seeking interim maintenance. The Family Court ordered a sum of Rs.10,000/- per month, as interim maintenance to the respondent/wife till the disposal of the maintenance case. Challenging the said order, the petitioner has filed the present revision.

3. The learned counsel for the petitioner submitted that the petitioner is in bed-ridden and he is unable to maintain himself, whereas, the respondent/wife is working and getting decent salary. However, the Family Court failed to consider the same and ordered interim maintenance, which warrants interference of this Court.

4. It seems that the maintenance case is pending from the year 2020. Since the scope of Section 125 Cr.P.C is summary in nature and its object itself has to be decided within a short span of time, unfortunately, the Family Court and the learned counsel on either side are protracting the case only to



deviate the procedures as contemplated under Section 125 Cr.P.C. Time and again, the Hon'ble Supreme Court and this Court issued directions that the maintenance case should be disposed of on merits within a prescribed time limit. The Hon'ble Supreme Court in the case of ***Rajnesh vs. Neha and another*** reported in ***(2021) 2 SCC 324*** it is clearly stated that both the parties have to disclose their Affidavit of Assets and Liabilities as stated in the Enclosure I to III as stated in the ***Rajnesh case*** (supra) and also stated that application for interim maintenance has to be disposed of within 60 days by the Court as specified in Section 125 Cr.PC.

5. On a perusal of the records, it is seen that the Family Court or the learned counsel on either side, are not following either the procedures contemplated under Section 125 Cr.P.C or even the third proviso of Section 125(i) Cr.P.C in the case of interim maintenance and keeping the maintenance case years together, which would clearly defeat the object of Section 125 Cr.P.C., especially, when it contemplates as summary procedures. Whereas, most of the Judicial Officers or Bar members are not following the said procedures. Now-a-days, Advocates are appearing before the Family Court and are not taking the case seriously while dealing with matrimonial matters



and maintenance cases and also as not following the directions of the Hon'ble Supreme Court. Most of the maintenance cases, at the time of filing the case the children are almost minors at the tender age, but pending disposal of the matter they attain majority.

6.Considering the facts and circumstances and also considering the scope of Section 125 Cr.P.C, this Court feels that the order of the Family Court is liable to be set aside and accordingly, the learned Judge, Family Court, Chennai shall be directed to dispose of the maintenance case, as expeditiously as possible and also in accordance with the relevant Acts meant for Family matters.

7. In view of above, the order dated 28.02.2022 passed in M.P.No.346 of 2021 in M.C.No.209 of 2022 by the learned II Additional Principal Judge, II Additional Family Court, Chennai is set aside and this Criminal Revision Case is allowed, with the following directions :

(i) Both the parties are directed to file their Affidavit of Assets and Liabilities, before the Family Court within a period of two weeks as per the dictum laid down by the Hon'ble Supreme Court in ***Rajnesh case*** cited



(supra).

WEB COPY

(ii) The Family Court is directed to take the maintenance case in M.C.No.209 of 2022, itself for early disposal and if the parties are to lead any oral and documentary evidence, the Family Court is directed to conduct the trial on a day-to-day basis and dispose of M.C.No.209 of 2022, itself within a period of one month from the date of receipt of a copy of this order.

(iii) Both the parties are directed to extend their fullest co-operation for early disposal of the maintenance case itself.

02.11.2022

Index : Yes/No
Speaking Order/Non Speaking Order
ms

To

1. The II Additional Principal Judge,
II Additional Family Court, Chennai.

2. The Judge,
Family Court,
Chennai.



WEB COPY



Crl.R.C.No.1456 of 2022

P.VELMURUGAN, J.

ms

Crl.R.C.No.1456 of 2022

02.11.2022