



Crl.M.P.No.18125 of 2022

in

Crl.R.C.No.743 of 2022

D.BHARATHA CHAKRAVARTHY. J.,

This is an application filed to recall the findings and conclusion given in the Paragraphs Nos.20, 21 and 24 of the order dated 16.09.2022 in Crl.R.C.Nos.743, 1273 and 1274 of 2022.

2.*Mr.N.Manoharan*, learned Counsel appearing on behalf of the petitioner would submit that, in this case, the petitioner is constrained to file a recall application in view of the findings made in the above said paragraphs. After coming to the conclusion about the needs of the child, while considering the quantum, this Court had erroneously placed reliance only on the photographs and other pictures, which cannot be said to be conclusive proof of petitioner's income. On the other hand, when the income tax accounts were submitted before this Court, this Court ought not to have deviated from the said income tax accounts.

3.In this regard, the said submissions were very clearly and categorically made during the course of the hearings. I have made a



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conscious decision, in this case, to depart from the income tax accounts considering the lifestyle of the petitioner. Therefore, it is not a decision which is made on an erroneous appreciation or misunderstanding of any document nor the same is made without affording any hearing to the petitioner.

4. Therefore, when this Court has considered the very same issue in detail and arrived at the findings, this recall petition cannot be in the form of a review or an appeal before the same Court to reconsider the issue. Therefore, finding no merits in the recall petition, it is hereby dismissed.

5. At this juncture, the learned Counsel for the petitioner would submit that the subsequent capacity of the petitioner had gone down as also requirements of the child. Therefore, he would submit that this recall petition can be considered in terms of Section 127 of the Criminal Procedure Code also. I am afraid the same can be taken into account. The prayer to reduce the amount is a separate cause of action, for which a petition has to be filed before the Trial Court under Section 127 of Cr.P.C., and subsequent events cannot be the factors for this Court to take into



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account to recall the order or reduce the quantum which is originally fixed by the Trial Court and the same is affirmed by this Court.

6. Therefore, if at all the petitioner has any such claims, he has to move the Trial Court appropriately and it may consider the case on its own merits.

01.12.2022

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Note: Issue order copy on 02.12.2022.



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