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Crl.R.C.No.124 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Crl.R.C.No.124 of 2020

and

Crl.M.P.No.838 of 2020

Arul

... Petitioner

Vs.

1. Banupriya

2. Minor Dharnisha

D/o, Arul

Represented by Mother

and Natural guardian

the first respondent.

... Respondents

Prayer:

Criminal Revision Case filed under Sections 397 and 401 Cr.P.C., to set aside the order dated 13.12.2018 made in M.C.No.13 of 2017 on the file of the learned Judicial Magistrate No.II, Kallakurichi.

For Petitioner : Mr.V.Gunasekar

For Respondents : No appearance



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ORDER

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This Criminal Revision Case has been filed against the ex-parte order dated 13.12.2018 passed in M.C.No.13 of 2017 on the file of the learned Judicial Magistrate No.II, Kallakurichi.

2. Petitioner is the husband. Respondents are wife and daughter. The respondents herein filed M.C.No.13 of 2017 on the file of the Judicial Magistrate No.II, Kallakurichi. Though notice served on the petitioner/husband, he did not appear before the Judicial Magistrate No.II, Kallakurichi, hence the Magistrate passed an exparte order dated 13.12.2018, directing the petitioner to pay sum of Rs.5,000/- per month to the first petitioner and Rs.10,000/- to the second petitioner towards maintenance. Hence, the petitioner herein filed a petition in Crl.M.P.No.1218 of 2019 on the file of the Judicial Magistrate No.II, Kallakurichi to set aside the exparte order dated 13.12.2018 passed by the Magistrate. The learned Magistrate directed the petitioner herein to pay Rs.50,000/- to the respondents on or before 10.07.2019, vide order dated 11.07.2019 in Crl.M.P.No.1218 of 2019. The petitioner neither sought any

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clarification before the learned Magistrate nor challenged the said order before this Court, instead, he challenged the original exparte order 13.12.2018 passed by the learned Judicial Magistrate. Once the petitioner has filed a petition in Crl.M.P.No.1218 of 2019 before the Magistrate to set aside the exparte order and the learned Magistrate also has passed an order dated 11.07.2019 in the said petition, the petitioner cannot challenge the original exparte order.

3. The main contention of the learned counsel for the petitioner is that the learned Magistrate directed the petitioner to pay sum of Rs.50,000/- to the respondents on or before 10.07.2019, vide order dated 11.07.2019 ie., much earlier to the date of passing that order. If the petitioner aggrieved against that order, he should have challenged the same. Once the petitioner filed a petition to set aside the exparte order passed by the Magistrate and the same was also disposed by the learned Magistrate, he cannot challenge the original exparte order by way of revision.

4. In view of the same, this Court do not find any merit in the



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Criminal Revision Case and the same is liable to be dismissed. Accordingly,

Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

14.12.2022

mfa

Index:yes/No

Internet:yes/No

To

1. The Judicial Magistrate No.II, Kallakurichi.



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P.VELMURUGAN, J.

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