



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.R.C(MD)No.415 of 2021

and

Cr1.M.P(MD)No.4362 of 2021

WEB COPY

P.Ramar

... Revision Petitioner/Respondent

Vs.

1.Mrs.Rajamani

2.Minor Hariprasanth ... Respondents/Petitioners

(R - 2 represented by his mother R - 1)

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the entire records in Cr.M.P.No.2252 of 2020 in M.C.No.10 of 2019 dated 18.03.2021 on the file of the learned Judicial Magistrate No.II, Usilampatti, Madurai District and to set aside the same.

For Petitioner

: Mr.C.M.Arumugam

For Respondents

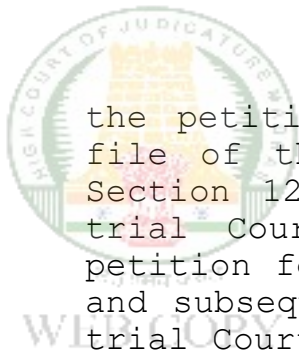
: Mr.J.Senthil Kumariah

ORDER

This revision has been filed to set aside the order passed in Cr.M.P.No.2252 of 2020 in M.C.No.10 of 2019, dated 18.03.2021 on the file of the learned Judicial Magistrate No.II, Usilampatti, Madurai District, thereby dismissed the petition to set aside the ex-parte order.

2.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

3.The petitioner is the husband and the first respondent is the wife and they got married on 14.09.2005. Due to their wedlock, they gave birth to the second respondent. Thereafter, due to dowry demand and cruelty, the respondents were driven out from the matrimonial home. Therefore, the respondents filed a petition for maintenance in M.C.No.10 of 2019 on the file of the learned Judicial Magistrate No.II, Usilampatti, under Section 125 of Cr.P.C. On receipt of the notice from the respondents in the maintenance case, the petitioner failed to appear before the trial Court, therefore, he was set exparte and the Court below ordered monthly maintenance of Rs.10,000/- each to the respondent payable by the petitioner. Hence,



the petitioner filed a petition in Cr.M.P.No.2252 of 2020 on the file of the learned Judicial Magistrate No.II, Usilampatti under Section 127(2) of Cr.P.C to set aside the exparte order and the trial Court, by an order, dated 18.03.2021 dismissed the said petition for the reason that already the petitioner was set exparte and subsequently, it was set aside. Again he was absent before the trial Court and as such, he was set exparte. Thought the petitioner was given sufficient opportunity before taking exparte evidence, the petitioner failed to utilise the chance.

4.Admittedly, the petitioner is working as a Driver in the Tamil Nadu State Transport Corporation and he is drawing salary more than Rs.60,000/-. However, the petitioner may be given one more opportunity to defend his case before the trial Court on condition that the petitioner shall pay a sum of Rs.1,00,000/- each to the respondent from the arrears of maintenance and shall continue to pay the monthly maintenance for a sum of Rs.5,000/- each to the respondent till the disposal of the maintenance case.

5.Accordingly, this Criminal Revision Case is allowed on condition that the petitioner shall pay a sum of Rs.1,00,000/- each to the respondent from the arrears of maintenance on or before 31.05.2022, failing which, the order stands dismissed automatically without further reference to this Court and shall continue to pay the monthly maintenance for a sum of Rs.5,000/- each to the respondent till the disposal of the maintenance case. On such payment, the trial Court is directed to restore the maintenance case and dispose of the same within a period of six months thereafter. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

25/04/2022

Sub Assistant Registrar(CS-III)

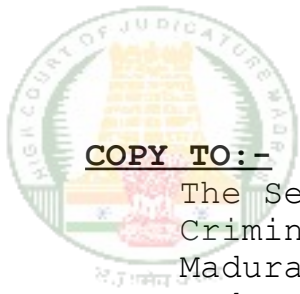
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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

The Judicial Magistrate No.II,
Usilampatti, Madurai District.

<https://hcservices.ecourts.gov.in/hcservices/>



COPY TO:-

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

WEB COPY

+1 CC to M/s.C.M. ARUMUGAM, Advocate (SR-20242[F]
dated 21/04/2022)

+1 CC to M/s.J. SENTHIL KUMARAIAH, Advocate (SR-20267[F]
dated 21/04/2022)

Order made in
Cr1.R.C(MD)No.415 of 2021
20.04.2022

MA(CO)
GC(25.04.2022) 3P 6C