



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.M.P.(MD) No.7539 of 2019

in

Crl.R.C(MD)SR.No. 24917 of 2019

WEB COPY

Yogeswaran @ Anand

...Petitioner/Petitioner

Vs.

Jesintha

...Respondent/Respondent

PRAYER in Crl.M.P(MD)No.7539 of 2019: Criminal Miscellaneous Petition filed under Section 5 of Limitation Act, praying this Court to condone the delay of 87 days in filing the above Criminal Revision Petition against the order dated 11.02.2019 made in Crl.M.P.No.353 of 2017 in M.C.No.115 of 2012 (CJM) on the file of the Family Court, Tiruchirapalli.

PRAYER In Crl.R.C.(MD)SR. No.24917 of 2019:This Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. to set aside the order dated 11.02.2019 made in Crl.M.P.No.353 of 2017 in M.C.No.115 of 2012(CJM) on the file of the Family Court, Tiruchirapalli by allowing this Criminal Revision Petition.

For Petitioner : Mr.P.Santhoshkumar

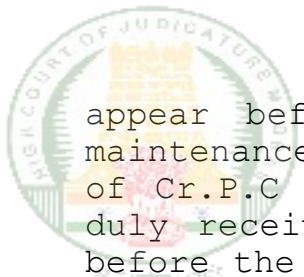
ORDER

The criminal miscellaneous petition has been filed to condone the delay of 87 days in filing the criminal revision case.

2.The criminal revision case has been filed challenging the order passed in Crl.M.P.No.353 of 2017 in M.C.No.115 of 2012, on the file of the Family Court, Tiruchirappalli.

3.The petitioner got married with the respondent herein. Thereafter, they got separated. Hence, the respondent filed a petition in M.C.No.115 of 2012 for maintenance. On receipt of the notice, the petitioner failed to appear before the Court below and as such, the Court below ordered maintenance of Rs.1,500/- as monthly maintenance. However, on receipt of the said notice from the trial Court, the petitioner failed to appear and as such, he was set Exparte and the Exparte order has been passed. Aggrieved by the same, the petitioner has filed a petition to set aside the exparte order with the huge delay of 1540 days.

4.On perusal of the affidavit filed in support of the condone delay petition, it is revealed that he was detained under Goondas Act, by order, dated 04.09.2012. Therefore, he could not able to



appear before the trial Court. However, for execution of the maintenance order, the respondent filed a petition under Section 128 of Cr.P.C and in which, notice was ordered and the same has been duly received by the petitioner. Even then, he failed to appear before the trial Court. Therefore, thus it is clear that after his detention, he was released and he duly received the notice issued in the petition filed by the respondent under Section 128 of Cr.P.C. Therefore, the Court below rightly dismissed the petition to condone the delay of 1540 days in preferring the revision petition as against the order of maintenance.

5.That apart, the Court below had ordered only a sum of Rs.1,500/- as monthly maintenance payable by the petitioner to the respondent. Therefore, the petitioner has no merits to succeed the criminal revision petition. This Court is not inclined to allow the condone delay petition. Accordingly, the criminal miscellaneous petition is dismissed. Consequently, the connected criminal revision case in Crl.R.C.(MD)SR.No.24917 of 2019 is rejected in SR stage itself.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

lr

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 Judge, Family Court,
Trichy.

Crl.O.P.(MD) No.7539 of 2019
03.03.2022

MGJ(24.03.2022) 2P 2C