



Crl.O.P.(MD) No.15310 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**RESERVED ON : 09.11.2022
DELIVERED ON : 25.11.2022**

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**CORAM:
THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP**

**CRL.O.P (MD) No.15310 of 2022
and
CRL.M.P (MD) No.10048 of 2022**

R.V.Venkatesan

...Petitioner / Respondent /
1st Respondent / 1st Respondent

VS

1.Nagavalli

2.Minor Premkumar

3.Minor Devasri

... Respondents / Petitioners /
Petitioners / Petitioners

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the order of the Hon'ble Principal Sessions Court, Sivagangai in Crl.R.C. No.6 of 2021 dated 03.03.2022 setting aside the order passed in M.P.No.4307 of 2019 in D.V.O.P. No.27 of 2019 dated 23.02.2021 on the file of the learned Principal District Munsif Cum Judicial Magistrate, Karaikudi.



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Crl.O.P.(MD) No.15310 of 2022

For Petitioner : Mr.M.Jerin Mathew

For Respondents : No Appearance

ORDER

When the case came up for hearing on 11.10.2022, the learned Counsel for the Petitioner submitted his arguments. At that time, Criminal Original Petition was admitted and notice was issued to the Respondents. The Respondents 2 and 3 are minors. The learned Counsel for the Petitioner submitted that the Petitioner is the husband of the first Respondent and father of the Respondents 2 and 3. The 1st Respondent had filed D.V.O.P. No.27 of 2019, in which, M.P.No.4307 of 2019 was filed seeking interim maintenance before the learned Principal District Munsif cum Judicial Magistrate, Karaikudi and the same was allowed, directing the Petitioner to pay a sum of Rs.5,000/- (Rupees Five Thousand Only) per month as maintenance to the Respondents. Therefore, the 1st Respondent filed Crl.R.C.No.6 of 2021 before the learned Principal District and Sessions Court, Sivagangai.



Crl.O.P.(MD) No.15310 of 2022

2. It is the contention of the learned Counsel for the Petitioner that the learned Principal District and Sessions Judge, Sivagangai, had taken revision filed by the Petitioner on file, when she had the right to file a statutory appeal before the learned Principal District and Sessions Court, Sivagangai. If the statutory appeal had been filed, the Petitioner herein is the Respondent in the appeal and had chance to agitate his right. Since, the first Respondent had filed a revision, the Petitioner was not heard. Without notice to the Petitioner, the learned Principal District and Sessions Judge, Sivagangai, increased the maintenance amount from Rs.5,000/- (Rupees Five Thousand) to 10,000/- (Rupees Ten Thousand). Aggrieved by the same, the Petitioner had invoked the powers of the Court under Section 482 of Criminal Procedure Code and filed this petition seeks to set aside the order passed by the learned Principal District and Sessions Court, Sivagangai in Crl.R.C.No.6 of 2021 dated 03.03.2022.

3. After issuance of notice, this Court had adjourned the case to 02.11.2022 from 11.10.2022. On 02.11.2022, the names of the Respondents were printed in the cause list. Therefore, this Court had adjourned this case to 09.11.2022 to find out if any counsel is appearing for the Respondents.



Crl.O.P.(MD) No.15310 of 2022

WEB COPY

4. When the case came up for hearing on 09.11.2022, there was no representation for the Respondents. The 1st Respondent / Defacto Complainant had not engaged counsel to proceed with the arguments or to raise objections. Therefore, this Court had reserved the case for orders.

5. Considering the submissions of the learned Counsel for the Petitioner, the Petitioner was not granted chance to agitate his rights in the appeal. Instead of appeal, it was revision. Therefore, the order passed by the learned Principal District and Sessions Court, Sivagangai, in Crl.R.C. No.6 of 2021 is set aside. The learned Principal District and Sessions Court, Sivagangai is directed to issue notice to the Petitioner as Respondent in Crl.R.C. No. 06 of 2021 and direct the counsel appearing for the Revision Petitioners in Crl.R.C.No.06 of 2021 to file statutory appeal, thereby granting an opportunity to the Respondents herein, Petitioners in D.V.O.P. No.27 of 2019. The Respondent in Crl.R.C.No.06 of 2021 shall agitate his valuable rights on appearance of the Respondent before the learned Principal District and Sessions Court, Sivagangai. The learned Principal District and Sessions Court, Sivagangai, is directed that after hearing the



Crl.O.P.(MD) No.15310 of 2022

learned Counsel for the Revision Petitioner in Crl.R.C.No.06 of 2021 by directing them to file a statutory appeal, then, hear the Respondent herein and pass appropriate orders as per law.

In the result, this Criminal Original Petition is allowed.

Consequently, the connected Miscellaneous Petition is closed.

25.11.2022

Internet:Yes./No
Index:Yes/no
indu

To

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD) No.15310 of 2022

SATHI KUMAR SUKUMARA KURUP, J.

indu

Order made in

CRL.O.P (MD) No.15310 of 2022

25.11.2022