



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.01.2022

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.942 of 2019

Muthukumar

... Revision Petitioner/Respondent/
Respondent

Vs.

1.Kartheeswari

2.Minor.Pranav Rithish

.. Respondents/Petitioners/
Petitioners

Prayer : This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., to set aside the order passed on 19.10.2019 and 02.11.2019 by the learned Judicial Magistrate, Paramakudi passed in Crl.M.P.No.4083 of 2019 in M.C.No.16 of 2014 and to direct the learned Judicial Magistrate, Paramakudi to pass orders on merits.

For Petitioner
For 1st Respondent

: Mr.K.Baalasundaram, Advocate
: Mr.A.Baskaran, Advocate

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.4083 of 2019 in M.C.No.16 of 2014 dated 02.11.2019, on the file of the learned Judicial Magistrate, Paramakudi.

2.The petitioner herein is the husband and the first respondent herein is the wife. The respondents herein have filed a petition in M.C.No.16 of 2014 for maintenance and the trial Court directed the petitioner herein to pay a sum of Rs.3,000/- (Rupees Three Thousand only) per month for the first respondent herein and Rs.6,000/- (Rupees Six Thousand only) per month for the second respondent herein towards maintenance and to pay the maintenance amount on or before seventh of every month and to pay the arrears of maintenance from the date of filing of the petition within a period of two months . The first respondent wife has filed a petition in Crl.M.P.No.4083 of 2019 for collection of the maintenance amount. On 19.10.2019, the trial Court has passed an order directing the petitioner husband to pay the entire balance amount by 02.11.2019. Since the husband failed to pay the amount on that date and failed



to appear on that date, the trial Court has issued NBW against the petitioner husband. Against which, the petitioner has preferred this revision case.

3.On the side of the petitioner, it is stated that the trial Judge has failed to consider that there was no petition under Section 125(3) of Cr.P.C., and the maintenance arrears from 05.12.2014 is barred by limitation and that the maintenance order has not attained finality. The petitioner is maintaining his aged parents. The first respondent herein has filed a petition in H.M.O.P.No.52 of 2008 for restitution of conjugal rights before the Sub Court, Paramakudi. The first respondent failed to take any steps to join with the petitioner and prayed the impugned order to be set aside.

4.On the side of the 1st respondent, it is stated that the petitioner has obtained a stay order from this Court in the year 2019 and this Court has passed an order of interim stay on condition that the petitioner has to deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of M.C.No.16 of 2014. Apart from that amount, the petitioner has not paid any amount towards maintenance for the respondents and prayed for a direction to the petitioner to pay the arrears of maintenance within a time limit to be fixed by this Court.

5.It is seen that the trial Court has ordered for maintenance from the date of filing of the petition and that the maintenance case was filed in the year 2014.

6.On the side of the petitioner, it is stated that the petitioner is willing to live with the respondents. If the petitioner is really interested in living with the respondents, he has to prove the same. The petitioner has not taken any steps to deposit the arrears of maintenance amount and that he has not taken any steps for re-union. From the grounds of revision, it is clear that it was the first respondent who has filed a petition for restitution of conjugal rights. Hence, the contention of the petitioner that the respondents failed to join with the petitioner is wrong. Maintenance is a relief, which is immediately necessary for leading the day to day life of the respondents. The first respondent has to take care of the minor second respondent. It is seen that the petitioner is a Government servant.

7.In the above circumstances, it is clear that the petitioner is wilfully evading payment. Hence, this Court directs the petitioner to pay 50% of arrears amount on or before 28.02.2022 and to pay the balance of the arrears amount on or before 08.04.2022 and to pay the monthly maintenance amount on or before seventh of every month.



WEB COPY

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8. With the above direction, this Criminal Revision Case is disposed of.

Sd/-
Assistant Registrar (CS-II)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

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

1. The Judicial Magistrate, Paramakudi.
2. Do through The Chief Judicial Magistrate,
Ramanathapuram District.

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Date:21.01.2022

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