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Crl.R.C.No.113 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 18.04.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE V.SIVAGNANAM**

**CRL.R.C.NO.113 OF 2023**

A.Prabakaran

... Petitioner

**Vs.**

1.Jeyapraba

2.Meena

3.Swetha

... Respondents

**PRAYER:** Criminal Revision Petition filed under Section 401 Cr.P.C., to set aside the order passed in C.M.P.No.2362/2021 in M.C.No.1/2019 dated 10.10.2022 on the file of the District Munsif cum Judicial Magistrate, Ranipet.

For Petitioner : Mr.N.Umapathi

For Respondent : Notice served – No appearance

**ORDER**

Notice sent to the respondents has been served and their names are also printed in the cause list. However, there is no appearance on behalf of the respondents.

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2.Heard the submissions made by the learned counsel for the petitioner.

3.The learned counsel for the petitioner submits that the first respondent is the wife of the petitioner herein. The first respondent filed a petition against the petitioner herein, for maintenance, under Section 125(1) Cr.P.C., in M.C.No.1 of 2019 on the file of District Munsif cum Judicial Magistrate, Ranipet. However, the Trial Court passed an *exparte* order directing the petitioner herein to pay a monthly maintenance of Rs.30,000/- on or before the 5<sup>th</sup> day of every calendar month. Subsequently, the petitioner filed a petition under Section 126(3) Cr.P.C. in CMP No.2362 of 2021 in M.C.No.1 of 2019 to set aside the *exparte* order. The Trial Court, without considering the contention of the petitioner that he suffered COVID – 19 in the month of August 2021, dismissed the same on 10.10.2022, which is under challenge in this Criminal Revision Case.

4.The learned counsel for the petitioner further submits that sufficient opportunity has to be given to the petitioner / husband to file his



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statement of assets and liabilities, as held in the various judgments of the Hon'ble Supreme Court and also, the matter may be decided on merits and reasonable amount of maintenance has to be fixed, after considering his side evidence. Therefore, he seeks to set aside the impugned order.

5.I have considered the submission made by the learned counsel for the petitioner.

6.On perusal of the records, the fact reveals that the first respondent is the wife of the petitioner herein and she filed a petition against for maintenance under Section 125(1) Cr.P.C., in M.C.No.1 of 2019 on the file of District Munsif cum Judicial Magistrate, Ranipet. However, the Trial Court passed an *exparte* order directing the petitioner herein to pay a monthly maintenance of Rs.30,000/- on or before the 5<sup>th</sup> day of every calendar month. The petitioner filed a petition under Section 126(3) Cr.P.C. in CMP No.2362 of 2021 in M.C.No.1 of 2019 to set aside the *exparte* order. The Trial Court, without considering his contention that he suffered COVID - 19 in the month of August 2021, dismissed the petition on 10.10.2022.

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7.It is not disputed that the maintenance order passed by the learned Trial Judge in M.C.No.1 of 2019 is an *exparte* order. Further, the assets and liabilities of the parties are not filed before the Trial Court and the same was not considered by the Trial Court while passing *exparte* order. Under these circumstances, this Court is inclined to set aside the impugned order passed by the Trial Court.

8.Accordingly, the impugned order dated 10.10.2022 passed in C.M.P.No.2362 of 2021 in M.C.No.1/2019 by the learned District Munsif cum Judicial Magistrate, Ranipet is set aside and the matter is remitted to the Trial Court. The Trial Court is directed to take up the case in M.C.No.1 of 2019 and receive the statement of assets and liabilities from the parties and thereafter arrive at a reasonable quantum of maintenance upon the evidence adduced by both the parties. Further, the Trial Court is directed to decide the matter on merits and in accordance with law and dispose of the same within a period of three months from the date of receipt of a copy of this order.



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9.In fine, the Criminal Revision Case is allowed.

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Internet : Yes/no  
TK

To

The District Munsif cum Judicial Magistrate  
Ranipet.



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**V.SIVAGNANAM, J.**

TK

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