



C.M.P.No.7108 of 2023

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and C.R.P.(PD).No.2661 of 2019

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N.SESHASAYEE.J.

The present C.R.P is filed challenging an order awarding interim maintenance under Section 24 of the Hindu Marriage Act,1955 vide order of the III Additional Family Court, Chennai in I.A.No.3238 of 2012 in O.P.No.3197 of 2011. And the present CMP is filed for condonation of delay of 354 days in preferring this CRP.

2.Quintessence of the fact is that the respondent herein had earlier filed M.C.No.509 of 2011 before the very Family Court, which later passed the order in I.A.No.3238 of 2012, for maintenance under Section 125 Cr.P.C., and the Court had passed an order awarding a monthly maintenance of Rs.3,000/- vide its order dated 11.02.2012. Subsequently, the respondent had taken out an application in I.A.No.3238 of 2012 for interim alimony. This was ordered exparte by the Family Court, wherein it awarded Rs.7,000/- per month. What is curious about the whole process is that the respondent who had already obtained an order of maintenance vide order dated 11.02.2012 in M.C.No.509 of 2011, did not choose to disclose the same in her affidavit filed in support of her



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application in I.A.No.3238 of 2012. This has led to a situation where the same Court was exposed to the embarrassment of passing two different orders of the same character of claim. If the order passed in M.C.No.509 of 2011 had been disclosed to the Court, possibly the Court might have decided the case differently. This is so much about the merit of the order passed under the conduct of the respondent. This order came to be dismissed on 16.11.2021, wherein the Family Court has recorded that the matter was posted on 05.06.2020 and also on 15.11.2021. However, in none of these days there was any representation. In other words, the said order was dismissed for non prosecution.

3.Heard both sides.

4.Having satisfied with the reasons stated in the accompanying affidavit, this application stands allowed.

5.The Registry is required to scrutinize the application for restoration of C.R.P.(PD).No.2661 of 2019, if it is in order.

19.04.2023

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