



Crl.R.C.No.772 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

CRL.R.C.NO.772 OF 2023 &
Crl.M.P.No.5974 of 2023

1. M. Ema Gandhi

.. Petitioner

Vs

1. G. Nagarani
2. Minor Jayaprakash
represented by his natural
Guardian and his mother
G.Nagarani

... Respondent

Prayer: Criminal Revision Case filed under section 397 r/w.401 Cr.P.C. to set aside the order passed in C.M.P.No.810 of 2021 in M.C.No.13 of 2015, dated 09.11.2022 on the file of the Additional District Munsif cum Judicial Magistrate, Ambur, Thiruvallur District and consequently allow this Criminal Revision.

For Petitioner : Mr. B. Lenin Balu

For Respondent : Mr. Sharat Chandran
(takes notice for respondent)



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ORDER

This Criminal Revision case has been filed challenging the order dated 09.11.2022, imposing sentence on the petitioner for non payment of maintenance amount, passed by the Additional District Munsif cum Judicial Magistrate, Ambur, Tirupathur District in CMP.No.810 of 2021 in M.C.No.13 of 2015.

2. The learned counsel for the petitioner submitted that the petitioner is the husband and the respondents are his wife and son respectively and due to misunderstanding between them, they got divorced. The respondents filed a maintenance case in M.C.No.13 of 2015 before the court below wherein, the petitioner was ordered to pay Rs.1500/- to his wife and Rs.2,500/- to his son as monthly maintenance. Since the petitioner defaulted in payment of maintenance for 32 months and has to pay the arrears of Rs.2,56,500/-, the respondent/wife filed CMP.No.810 of 2021 in M.C.No.13 of 2015.

3. The learned Magistrate, after considering the submissions of the



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counsel appearing for the parties, found that the petitioner has committed default in payment of monthly maintenance for 32 months and is in arrears of Rs.2,56,500/- as awarded in M.C.No.13 of 2015 and sentenced him to undergo 15 days simple imprisonment for each month default. He further submitted that the petitioner was working as a helper to Ration Shop Supervisor and is drawing a meager amount of Rs.4000/- to Rs.6000/- as his salary and he is spending more money to his aged parents for their food and medical expenses. Since the petitioner is in prison, he is not able to pay the arrears of maintenance amount of Rs.2,56,500/-.

4. It is his further contention that the trial court failed to see that the petitioner is a poor man and daily waged person. The sentence passed by the lower court for non payment of maintenance arrears is totally against law and principles of natural justice. Thus, he prayed for setting aside the impugned order.

5. Per contra, Mr. Harikrishnan, learned counsel who takes notice for the respondent opposed the revision petition and seeks for dismissal of the same.



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6. Considered the arguments advanced on both sides and perused the impugned order and entire materials available on record.

7. On perusal of records and impugned order, it is seen that the petitioner/husband failed to pay the monthly maintenance to his wife and son as ordered by the court below and has been in arrears of Rs.2,56,500/- being monthly maintenance of 32 months. Seeking arrears of maintenance amount, the respondents filed CMP.No.810 of 2021 before the court below, wherein, the learned Magistrate, after hearing the parties, after taking a view that the petitioner avoided to pay arrear amount and disregarded the order of the court below, sentenced the petitioner to undergo 15 days simple imprisonment for each month default. In the considered opinion of this Court, there is no ground to interfere with the order passed by the Court below. The Criminal Revision is devoid of merits and the same is hereby dismissed. Consequently, the connected miscellaneous petition is closed.

27.04.2023



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msr

Index: yes/no

Internet:yes/no

To

The Additional District Munsif cum
Judicial Magistrate, Ambur,
Thirupathur District.

V. SIVAGNANAM, J.

msr



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