



Crl.R.C. Nos.903 & 907 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

Crl.R.C.Nos.903 & 907 of 2023

&

Crl.M.P. Nos. 7368, 7413, 8637, 8809 & 11520 of 2023

K. Harikrishnan

...Petitioner in both Crl R.Cs

Vs.

1. G. Sumathi

2. Stella

... Respondents in Crl.R.C. No.903 of 2023

Sumathi

... Respondent in CrlR.C.No.907 of 2023

Prayer : Criminal Revision Cases filed under Section 397 and 401 Cr.P.C. against the orders dated 20.04.2023 passed in M.P. No.72/21 in M.C. No.287/2006 and M.P. No.806/22 in MC. No.287/06 on the file of III Additional Principal Judge, Family Court, Chennai.

For Petitioner : Mr.K.P.C. Mogan (in both cases)

For Respondent/s : Mr.R.Krishnamurthy



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Crl.R.C. Nos.903 & 907 of 2023

COMMON ORDER

Challenge in these Criminal Revision Cases are made to the orders dated 20.04.2023 passed in M.P. No.72/21 and 806/22 in M.C. No.287/2006 on the file of III Additional Principal Judge, Family Court, Chennai.

2. The minimum facts required for disposing the present revision cases are as under:

- i. The revision petitioner is the respondent in M.C. No.287/2006 on the file of III Additional Principal Judge, Family Court, Chennai. The respondents herein filed the abovesaid Maintenance Case seeking maintenance from the revision petitioner.
- ii. The learned trial court judge vide his orders dated 08.11.2019 partly allowed the M.C. No.287/06 directing the present petitioner to pay a maintenance of Rs.5,000/- per month to the 1st respondent herein and Rs.2,000/- per month to the 2nd respondent (daughter) till she gets married and Rs.2,000/- per month to Minor



Crl.R.C. Nos.903 & 907 of 2023

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- iii. As against the abovesaid orders, the present revision petitioner filed a revision before this Court in Crl.RC. No.180/2020 and the said revision was dismissed by this court on 18.08.2020.
- iv. Thereafter the present revision petitioner filed a Special Leave Petition in SLP (Crl) No.2163 - 2164 of 2021 before the Hon'ble Supreme Court in which the orders passed in Crl.RC.No.180/2020 by this Court was confirmed.
- v. Subsequently the respondents herein filed a petition under Section 127 Cr.P.C. in Crl.M.P. No.73/2021 in M.C. No.287/2006 seeking enhancement of maintenance and the said petition was allowed and the revision petitioner was directed to pay a sum of Rs.8,000/- per month to the 1st respondent and a sum of Rs.4,000/- per month to the 2nd respondent vide orders dated 22.11.2021.
- vi. Thereafter, the respondents filed petitions in M.P. No.72/21 and 806/22 in MC. No.287/06 under Section 125(3) r/w 128 Cr.P.C to issue a warrant under judicial form No.VII of Criminal Rules of Practice 2019 to levy a fine against the present revision petitioner



Crl.R.C. Nos.903 & 907 of 2023

WEB COPY

since he did not comply with the orders dated 08.11.2019 passed by the trial court in M.C. No.287/2006 and the orders passed in Crl.M.P. No.73/2021. The said petitions were allowed and a non bailable warrant was issued against the present revision petitioner for non payment of arrears amount to the respondents herein. Aggrieved over the same, the present Criminal Revisions are filed.

3. Mr.K.P.C. Mogan, learned counsel for the revision petitioner drew the attention of this court to the salary attachment made by the garnishee from 24.01.2022 to 21.06.2023 and contended that the trial court, without taking this aspect into consideration, issued a non bailable warrant against him. He further contended that already the revision petitioner had paid a sum of Rs.3,12,000/- by way of salary attachment and a sum of Rs.1,00,000/- by cash and Rs.2,00,000/- by way of cheque. According to him, he had paid the entire arrears to the respondents and therefore, the order passed by the trial court issuing non bailable warrant to the revision petitioner is totally wrong.



Crl.R.C. Nos.903 & 907 of 2023

WEB COPY

4. Per contra, Mr.R.Krishnamurthy learned counsel for the respondents contended that the total arrears payable to the respondents by the present revision petitioner is Rs.16,82,000/-, out of which only a sum of Rs.8,96,000/- has been paid by the present petitioner. The learned counsel for the respondents also filed a memo of calculation in this regard, which is extracted hereunder.

"Hence the arrears of Maintenance from the date of application from 2006 - till July 2023 in toto is commuted and calculated as follows:

(A) Arrears of Maintenance from the date of application is Rs.12,21,000/-

(B) Arrears of monthly maintenance allowance till enhancement was made splitted as to

During the year 2019 - 1 month

During the year 2020 - 12 months

During the year 2021 - 11 month

(November 2021, 22nd day enhancement was ordered)



WEB COPY



Crl.R.C. Nos.903 & 907 of 2023

For H. Sumathi - Rs.1,20,000/-

For H. Stella - Rs. 48,000/-

Rs.1,68,000/-

(C) After Enhancement from in November 2021 (8 days),
December 2021 till July 2023 has been commuted as follows:

- Rs.2,43,000/-

(D) Enhanced monthly maintenance allowance from the date of
filing enhancement petition should have to be paid by the
respondent is as follows:

- Rs. 50,000/-

Therefore

A + B + C + D are as follows:

(A) - Rs.12,21,000-00

(B) - Rs. 1,68,000-00

(C) - Rs. 2,43,200-00

(D) - Rs. 50,000-00

Rs.16,82,200-00

Hence the total amount of arrears is Rs.16,82,200/- (Rupees



Crl.R.C. Nos.903 & 907 of 2023

WEB COPY

sixteen lakhs eighty two thousand and two hundred only)

Payment was so far till date made by the respondent

(A) By M.P. No.107 of 2020 before the learned III Additional
Judge, Family Court at Chennai

12 months x 7000 - Rs.84,000/-

(for 1st petitioner Rs.5,000/- and 2nd petitioner Rs.2,000/-)

After first NBW was issued in M.P. No.72 of 2021

(B) By cash - Rs.1,00,000-00

(C) By cheque deposit - Rs.2,00,000-00

(D) By attachment of salary

From 24.01.2022 to 21.06.2023

(January 2022 to June 2023

for 16 months - Rs.3,12,000-00

(E) After having filed the vacate
stay petition filed in both Crl.R.C.

Nos 903 and 907 of 2023 by the
petitioner

(1) Cheque borne No.841447/Axis

Bank dt. 21.06.2023 - Rs. 60,000-00

(2) cheque borne No.841448/Axis

bank dt.21.06.2023 - Rs.1,40,000-00

Thus,



Crl.R.C. Nos.903 & 907 of 2023

WEB COPY

A+B+C+D+E, are commuted as follows:

A	-	Rs. 84,000-00
B	-	Rs.1,00,000-00
C	-	Rs.2,00,000-00
D	-	Rs.3,12,000-00
E	-	Rs.2,00,000-00

Rs.8,96,000/-
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5. The memo of calculation filed by Mr.R.Krishnamurthy , learned counsel for the respondents clearly would go to show that the present revision petitioner is in arrears of maintenance of Rs.8,96,000/- till July 2023. In fact, the learned counsel for the respondents, in his memo of calculation, had taken into account the salary attachment made by the garnishee from January 2021 to 21.06.2023 and also the cash of Rs.1,00,000/- and a cheque of Rs,2,00,000/-.

6. In the circumstances, the orders passed by the trial court cannot be found fault with. Accordingly both the Criminal Revision Cases are liable to be dismissed.

7. In the result,

i. the Criminal Revision Cases are dismissed. Consequently



Crl.R.C. Nos.903 & 907 of 2023

WEB COPY connected miscellaneous petitions are closed.

- ii. The orders dated 20.04.2023 passed in passed in M.P. No.72/21 and 806/22 in MC. No.287/06 on the file of III Additional Principal Judge, Family Court, Chennai , are confirmed.

29.08.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order

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Crl.R.C. Nos.903 & 907 of 2023

R. HEMALATHA, J.
bga

To

III Additional Principal Judge, Family Court, Chennai

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