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1 of 4

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.18966 of 2023

Munusamy, M/39 Y
S/o.late Sidhan

.. Petitioner/Petitioner/Respondent/Respondent

.Vs.

1.Muthulakshmi, F/37 Y
D/o.Govindhan

2.Minior Reema, F/17 Y
D/o.Munusamy

... Respondents/Respondents/Petitioners/Petitioners

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the dismissal order passed in Cr.MP.No.261 of 2023 in Cr.MP.No.364 of 2023 in M.C.No.32 of 2008 dated 27.6.2023, on the file of the Family Judge, Dharmapuri.

For Petitioner : Mr.V.Sakkarapani

For Respondents : No appearance

ORDER

This criminal original petition has been filed challenging the order passed by the Court below dismissing the application filed u/s.311 Cr.PC, to recall PW.1 for further cross examination.



2.The respondents have filed a maintenance case against the petitioner and the case was at the stage of examination of witnesses. The 1st respondent examined herself as PW.1. She was also cross examined by the petitioner on 07.3.2023 and 15.3.2023. According to the petitioner, some important questions were not put to the witness and hence, the application came to be filed u/s. 311 Cr.PC on 24.4.2023 to recall PW.1 for further cross examination. This application came to be dismissed by the Court below. Aggrieved by the same, the present criminal original petition has been filed before this Court.

3.Heard Mr.V.Sakkarapani, learned counsel for the petitioner. The respondents have been served with notice and the names have also been printed in the cause list. However, there is no representation for the respondents either in person or through counsel.

4.The learned counsel for the petitioner submitted that the maintenance that was fixed by the Court below was paid regularly to the respondents without fail. The learned counsel further submitted that the 2nd respondent has now become a major and she is also employed and is in position to maintain herself. However, some important questions were not put to PW.1 and the petitioner requires one last chance to recall PW.1 for further cross examination.

5.Taking into consideration the facts and circumstances of the case and also of the fact that the petitioner had filed the application at the earliest point of time to



3 of 4

recall PW.1 for further cross examination, this Court is inclined to give one last opportunity to the petitioner to recall PW.1 for further cross examination. Accordingly, the order passed by the Court below in Crl.MP.No.261 of 2023 in Crl.M.P.No.364 of 2023 in MC.No.32 of 2008 dated 27.6.2023, is hereby set aside.

6.The Court below is directed to fix a date for the appearance of PW.1 and the petitioner is directed to cross examine PW.1 on the same day. If for any reason, the petitioner fails to cross examine PW.1 on the date of appearance, the petitioner will lose his right to recall PW.1 in future.

7.In the result, this Criminal Original petition is allowed and there shall be a direction to the Court below to complete the proceedings in Crl.MP.No.261 of 2023 in Crl.M.P.No.364 of 2023 in MC.No.32 of 2008 dated 27.6.2023, within a period of three months from the date of receipt of copy of the order.

12.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
KP

To

Family Court
The Family Judge
Dharmapuri.



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4 of 4

N. ANAND VENKATESH,, J.
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