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Crl.R.C.No.1154 of 2019 and
Crl.M.P.No.15544 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2023

CORAM:

The Honourable MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.R.C.No.1154 of 2019 and
Crl.M.P.No.15544 of 2019

Jenith Agastin

...Petitioner/Respondent/Respondent

-Vs-

1. Mariyal

2. Minor.Nikitha

3. Minor Samsang Joes

4. Minor.Ananiya

...Respondents/Petitioners/Petitioners

Prayer:- Criminal Revision Case filed under Section 397 & 401 of the Criminal Procedure Code, 1973 to set aside the order passed by the learned Additional District Judge, Fast Track Court, Villupuram in C.A.No.65 of 2018 dated 05.03.2019 and confirming interim order passed by the learned Judicial Magistrate, Tirukoilur in C.M.P.No.1674 of 2017 dated 20.07.2018.

For Petitioner : Mr.K.Gangadaran

For Respondents : No Appearance



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J U D G M E N T

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The Criminal Revision case has been filed to set aside the order passed by the learned Additional District Judge, Fast Track Court, Villupuram in C.A.No.65 of 2018 dated 05.03.2019 and confirming interim order passed by the learned Judicial Magistrate, Tirukoilur in C.M.P.No.1674 of 2017 in D.V.O.P.No.7 of 2016 dated 20.07.2018.

2. When the case came up for hearing on earlier occasion, the learned Counsel for the Revision Petitioner (Husband) submitted that he was paying regularly, as per the direction of the learned Judicial Magistrate, Thirukoilur in D.V.O.P.No.7 of 2016. Subsequently, a new Court was formed at Thiruvannainallur, District-cum-Judicial Magistrate. Therefore when he went to the learned Judicial Magistrate, Thirukoilur, the staff at Thirukoilur, had refused to accept the Interim maintenance amount that was sought to be deposited by the Revision Petitioner (Husband) herein, before the learned Judicial Magistrate, Thirukoilur. Also the attempt to deposit in the newly constituted Court, Thiruvannainallur was also not fruitful. The staff at Thiruvannainallur also refused to accept it stating that the records were not received.



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5. Today, 18.12.2023, when the case came up for hearing, the learned Counsel for the Revision Petitioner submitted that he is ready to deposit the amount for his minor children, the Petitioner-2 and Petitioner-3 before the learned District-cum-Judicial Magistrate, Thiruvannainallur. He invited the attention of this Court to the counter filed by him in D.V.C.No.7 of 2016 in which he had made allegation against his wife, the Petitioner in D.V.C. original petition stating that she was having illicit relationship with one Praveen kumar. In due course of which, she became pregnant and delivered a female child. The Revision Petitioner is ready to undertake DNA test regarding the birth of the 3rd child and he also disputed to maintain the Petitioner in D.V.C original Petition and the 3rd child. He admitted the parentage of the minor Petitioner-2 and Petitioner-3. After hearing enquiry, without going into the merit of the case, the learned Judicial Magistrate, Thirukoilur had ordered payment of Rs.3000/- for each of the minor children born to the Respondent and the Petitioner in D.V.O.P. No.7 of 2016. Since the enquiry in D.V.O.P had to be heard and evidence had to be recorded, as an interim order, the learned Judicial Magistrate, Thirukoilur had passed orders directing the Respondent (Husband) in D.V.O.P.No.7 of 2016 to pay Rs.3,000/- each to the minor



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children, Petitioner-2 and Petitioner-3 in D.V.O.P and to decide about the same, only after hearing enquiry and after recording evidence regarding the parentage and other issues raised in the counter by Respondent (Husband) in D.V.O.P.

6. Till date, the Respondent in D.V.O.P.No.7 of 2016, who is the Revision Petitioner herein is paying the amount regularly. Considering the order passed by the learned Judicial Magistrate, Thirukoilur as a well reasoned order, this revision case does not have merit and dismissed. At the same time, during the pendency of Crl.R.C.No.1154 of 2019, the newly constituted Court was formed at Thiruvannainallur under whose jurisdiction, the Petitioner in D.V.O.P (Wife) and minor children reside.

7. Therefore this Court directs the learned District-cum-Judicial Magistrate, Thiruvannainallur to dispose off the D.V.C.No.1 of 2023 on priority basis, considering it, as the D.V.O.P was filed in the year 2016 and to dispose off the same after recording the evidence and also the DNA test, if the parties are willing for DNA test.



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The Criminal Revision Case is dismissed with direction to proceed with D.V.C.No.1 of 2023. The same amount to be deposited till the disposal of the D.V.C.No.1 of 2023. Consequently, connected miscellaneous petition is closed.

18.12.2023

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Index : Yes/No
Speaking/Non-speaking order

To

1. The District-cum-Judicial Magistrate,
Thiruvannainallur.
2. The Section Officer (VR Records)
Madras High Court, Chennai 600 104.



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SATHI KUMAR SUKUMARA KURUP, J.,

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