



Crl.R.C.(MD).No.141 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 29.09.2023

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD)No.141 of 2023

Anbarasu Pandian
(Presently prisoner at Central Jail, Madurai)

... Petitioner/Respondent/Respondent

Vs.

1.Sarmila

2.Minor.Kirija

(The minor 2nd Respondent is represented by her
mother and natural guardian namely, the first respondent)

.....Respondents/Petitioners/Petitioners

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the order, dated 10.11.2022 passed in Crl.M.P.No.1940 of 2020 on the file of learned Judicial Magistrate-II, Usilampatti and set aside the same as illegal.

For Petitioner : M/s. K.K.Samy

For Respondents : Mr.K.Chelladurai



Crl.R.C.(MD).No.141 of 2023

WEB COPY

ORDER

This revision has been filed to set aside the order passed by the learned Judicial Magistrate-II, Usilampatti, in Crl.M.P.No.1940 of 2020, dated 10.11.2022.

2.The petitioner is the husband filed this revision challenging the imprisonment imposed by the Court below for default in paying the maintenance.

3. The case of the prosecution is that the petitioner entered marriage with the first respondent on 01.02.2017. Due to wedlock, the second respondent was born on 12.10.2017. According to the first respondent, the petitioner in inebriated condition caused cruelty and also suspected her character and driven her out along with child from the matrimonial home. Thereafter, she is living with her parents along with child. Since the first respondent is unable to maintain herself and her child, she filed maintenance petition in M.C.No.7 of 2019 before the learned Judicial Magistrate No.II, Usilampatti, by claiming a sum of Rs.20,000/- per month.



Crl.R.C.(MD).No.141 of 2023

WEB COPY

4. The learned trial Judge after considering the oral evidence of the first respondent and P.W.2 and Ex.P.1 to Ex.P.5 and Ex.R.1, granted Rs.10,000/- per month to the first respondent and Rs.5,000/- per month to the second respondent from the date of filing of the petition. Thereafter, there was default in paying maintenance on the side of the petitioner, the first respondent filed Cr.M.P.No. 1940 of 2020 before the trial Court seeking arrear of maintenance amount. The learned trial Judge after considering the facts and circumstances of the case, imposed the imprisonment against the petitioner.

5. Aggrieved against the same, the present Revision has been filed by the petitioner along with suspension of sentence petition, which was already ordered by this Court dated 03.02.2023.

6. Today (29.09.2023), when the matter is taken up for hearing, both counsel on record submitted that by the order dated 24.02.2023, the matter was referred to mediation and in mediation, the matter was amicably settled between the parties and they have already filed joint compromise memo, which is extracted here under:-

“1. The wife and daughter of the petitioner filed the maintenance petition under Section 125 of Crl.R.C against the petitioner herein. The learned Judicial Magistrate-II,



Crl.R.C.(MD).No.141 of 2023

Usilampatti allowed the petition and directed to pay Rs. 15,000/- monthly towards the maintenance charge. On the other hand, the petitioner's earning capacity as a temporary employee is Rs.10,000/- only. Therefore, the petitioner filed Criminal Revision Petition in Hon'ble High Court in Cr.R.P. (MD)No.613 of 2021. The same was disposed on 30.11.2022 with a remark that whether till date, he is working as temporary employee and he did not get any other job. Meaning thereon, the order passed in M.C.No.7 of 2019 can be effected only, the petitioner is earning more than the amount as ordered by the learned Judicial Magistrate-II, Usilampatti. In the mean time, the learned Judicial Magistrate-II, Usilampatti passed order in Cr.M.P.No.1940 of 2020 to undergo the imprisonment for 7 1/2 months period. Towards the above litigation, the petitioner filed the Criminal Revision Petition before this Hon'ble High Court in Crl.R.C.No.141 of 2023.

2. In the mean time, out of the amount due to be paid as maintenance allowance to the wife and daughter of petitioner, (as ordered by the learned Judicial Magistrate Court), the petitioner made the following payments:-

S.No	Date of Payment	Amount (Rs)
1.	02.02.2023	50,000.00
2.	21.02.2023	50,000.00
3.	27.04.2023	50,000.00
4.	08.06.2023	60,000.00
	Total	2,10,000.00



Crl.R.C.(MD).No.141 of 2023

WEB COPY

Under the above circumstances, as directed by this Hon'ble High Court, we, both parties appeared before the Mediation and Conciliation Centre attached with this Hon'ble High Court and after negotiation, the amicable settlement was arrived between both parties. The settlement memo enclosed herewith may be treated as part and partial of this compromise Memo.”

6.The contents of the above joint compromise memo are read over and explained to both the parties and they would admit the same. The joint compromise memo filed by both the parties is recorded.

7. In view of the compromise entered between the parties, the learned Judicial Magistrate-II, Usilampatti, in Crl.M.P.No.1940 of 2020, dated 10.11.2022, is hereby set aside and the Criminal Revision Case stands allowed.

29.09.2023

NCC : Yes/No
Index : Yes/No
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Crl.R.C.(MD).No.141 of 2023

K.K.RAMAKRISHNAN, J.

dss

To

- 1.The Judicial Magistrate-II,
Usilampatti
- 2.The Section Officer,
Record Section (Criminal)
Madurai Bench of Madras High Court.

Crl.RC(MD)No.141 of 2023

29.09.2023