



CRL MP(MD) No.5711 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Twelfth day of July Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.5711 of 2023
in
CRL RC(MD)SR.No.13805 of 2023

NAGOOR HANIFA

... PETITIONER/PETITIONER

Vs

1 A.AYEESHA

2 MINOR.ABU KURAIRAA
REP BY MOTHER/NATURAL GUARDIAN
A.AYEESHA

... RESPONDENTS/RESPONDENTS

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to condone the delay of 281 days in preferring the above Criminal Revision against in M.C.No.72 of 2020 on the file Family Court,Madurai dated 25.03.2022.

PRAYER in CRL RC(MD) SR.No.13805 of 2023:

Pleased to call for the records relating to the order dated 25.03.2022 in M.C.No.72 of 2020 on the file of Family Court, Madurai, and set aside the same as illegal and allow this criminal revision as prayed for.

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.P.SIVAKUMAR, Advocate for the petitioner and of MR.M.SHREEDHAR, Advocate on behalf of the Respondent,the court made the following order:-



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The petitioner married the first respondent. Out of the wedlock they have blessed with the second respondent. Due to some dispute between them, the respondent/wife was living separately. Thereafter, she filed M.C.No.72 of 2020 on the file of the Family Court, Madurai claiming maintenance amount of Rs.40,000/- per month. In spite of receipt of notice, the petitioner did not appear before the Family Court and hence, the learned Judge, Family Court, Madurai, was pleased to consider the case on merits and granted maintenance of a sum of Rs.40,000/- per month in M.C.No.22 of 2020 by order dated 25.03.2022.

2. Challenging the said order, the petitioner filed the revision before this Court with delay of 281 days. This Court, by order dated 11.04.2023, directed the petitioner to deposit 50% of the arrears amount to condone the delay. Thereafter, the matter was posted on 19.06.2023. On the said date, the petitioner sought further adjournment to comply the interim order. Hence, the case was adjourned to 07.07.2023 finally. On 07.07.2023, this Court passed the following order:

“When the matter is taken up for hearing today, the learned counsel for the petitioner produced a Demand Draft for a sum of Rs.1,00,000/- (Rupees one lakh only) and he seeks further time for payment of remaining amount till 12.07.2023.

Recording the submission made by him, this matter is adjourned to



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Interim order already granted is extended till then.”

3. Today, when the matter is taken up for hearing, the learned counsel for the petitioner Mr.J.Sultan Basha represented that as per the instruction of his party/petitioner, he gave the change of vakalat. Further he submitted that the petitioner asked to return the amount by encashing the Demand Draft already taken.

4. It is submitted by the learned counsel for the respondent/wife that the learned counsel for the petitioner handed over the Demand Draft before the Bench and thereafter, he got back the Demand Draft from the learned counsel for the respondent.

5. At this stage, the learned counsel Mr.P.Sivakumar, who filed vakalat on behalf of the petitioner, today appeared before this Court on behalf of the petitioner and he seeks further time to pay the remaining amount.

6. This Court has considered the above sequence of events and the submissions made by all the counsel.

7. The conduct of the respondent from obtaining the interim order before this Court till today, is not appreciable. He suffered the maintenance order in M.C.No.72 of 2020 dated 25.03.2022. Without making any payment as per the maintenance



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order, he filed the revision challenging the maintenance order, dated 25.03.2022 with delay of 281 days. He agreed to deposit 50% of the arrears of the maintenance amount to condone the said delay. So, this Court, by order dated 11.04.2023, condoned the delay with condition to deposit 50% of the arrears amount and posted this case for compliance on 19.06.2023.

8. On the said day, without complying the condition, he seeks for adjournment through his counsel. So, this Court adjourned the case to 07.07.2023 finally. On that day, the petitioner brought a Demand Draft for part of the amount alone, ie., Rs.1,00,000/- (Rupees one lakh only) and he seeks further time to pay the remaining amount.

9. Taking the said situation as bonafide, this Court directed the learned counsel for the petitioner to handover the Demand Draft to the learned counsel for the respondent. The same was handed over before the Bench and this Court adjourned the case for the compliance at the request of the learned counsel for the petitioner on 12.07.2023.

10. Today, when the matter is taken up for hearing, the learned counsel on record, Mr.J.Sultan Basha represented that the petitioner got the bundle along with consent for change of vakalat. He further submitted that the petitioner asked to return the Demand Draft amount by cancelling the Demand Draft. So, without



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any option, he got back the Demand Draft from the learned counsel for the respondent without getting permission of this Court.

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11. The serious of the conduct on the part of the petitioner, more particularly, receiving the Demand Draft from the earlier counsel on record by forcing him and without getting permission from this Court, does not deserve to accept the plea of the new counsel on record for the petitioner to grant further time.

12. This Court has considered the merits of the petition. The reasons assigned by the petitioner in the affidavit in para 7 & 8 are not bonafide. Hence, this Court has no reason to accept the said delay and the same was only intended to prolong the payment of the maintenance amount and allowed the respondent to the stage of vagrancy. The settled principle that object of the law of maintenance is to protect the deserted wife and dependent children from destitution and vagrancy. The purpose is to achieve social justice which is the Constitutional vision, enshrined in the preamble of the Constitution of India. Therefore, it becomes bounden duty of the Courts to advance the cause of social justice.



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13. So, this Court considering the conduct of the petitioner before this Court and on merits does not find any merit in this petition and accordingly, this petition is dismissed. Consequently, Crl.R.C.(MD)SR.No. 13805 of 2023 is also dismissed.

sd/-
12/07/2023

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/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PJL

TO

THE JUDGE,
FAMILY COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.5711 of 2023
in
CRL RC(MD)SR.No. 13805 of 2023

Date :12/07/2023

PKP/MMS/SAR- /02.08.2023/ 6P/2C

Madurai Bench of Madras High Court is issuing certified
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