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Crl.R.C.No.76 of 2022
and Crl.M.P.No. 730 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.76 of 2022

and

Crl.M.P.No. 730 of 2022

S.Madhanagopal

... Petitioner

Vs.

Jothimathi Selvi

... Respondent

PRAYER: Criminal Revision Case has been filed under Section 397 r/w 401 of Code of Criminal Procedure, pleaded to set aside the final order dated 16.11.2021 passed in C.M.P.No.6 of 2020 in M.C.No.148 of 2016 on the file of the learned Additional Principal Family Judge at Coimbatore as against the petitioner.

For Petitioner : Mr.G.Sugadev Rajaguru
for M/s. Nathan and Associates

For Respondent : Mr.W.Camyles Gandhi
for M/s.P.Saravanasowmiyan



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ORDER

This Criminal Revision Petition has been filed seeking to set aside the final order dated 16.11.2021 passed in C.M.P.No.6 of 2020 in M.C.No.148 of 2016 on the file of the learned Additional Principal Family Judge at Coimbatore as against the petitioner.

2. It is the case of the petitioner/husband that the respondent/wife filed a maintenance case in M.C.No.148 of 2016 claiming maintenance from the petitioner. After adjudication, the trial Court passed an *ex parte* order dated 16.04.2018 directing the petitioner to pay a sum of Rs.6,000/- as maintenance per month to the respondent. As he finds it difficult to pay such a huge amount, he filed a petition in C.M.P.No.06 of 2020 in M.C.No.148 of 2016 seeking to condone the delay of in filing petition to set aside the *ex parte* order passed against the petitioner. After adjudication the trial Court dismissed the said petition Challenging the same, the petitioner is in this



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Criminal Revision Petition.

3. The learned counsel for the petitioner submits that as the petitioner is employed as a Poosari in a Temple and earning only a sum of Rs.7,000/- per month, it would be difficult to maintain his day to day expenses. When such being the case, the trial Court erred in awarding a sum of Rs.6,000/- per month to the respondent which is wholly unsustainable. Accordingly, he prayed for allowing this petition.

4. The learned counsel for the respondent submits that upon considering the oral and and documentary evidence, the trial court has directed the petitioner to pay interim maintenance of a sum of Rs.6,000/- per month to the respondent which is just and reasonable and the same does not require any interference of this Court.



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5. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials placed on record.

6. Though it is the claim of the petitioner that he is earning only a sum of Rs.7,000/- per month and also that he is unable to maintain himself, however, an ex parte order was passed in M.C.No.148 of 2016 directing the petitioner to pay a sum of Rs.6,000/- per month. Since the petitioner was unable to pay the maintenance amount, he filed a petition in C.M.P.No.06 of 2020 in M.C.No.148 of 2016, seeking to condone the delay of 540 days in filing the petition to set aside the order passed in M.C.No.148 of 2016. However, the said petition was dismissed on the ground that the affidavit lacks material particular.

7. Though such a contention has been raised by the learned counsel for the petitioner, however, it is the duty of the husband to maintain his wife



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and the award passed by the trial Court in M.C.No.148 of 2016 directing the petitioner to pay a sum of Rs.6,000/- per month towards maintenance is just and reasonable and the same does not require any interference of this Court. Further, the order passed in C.M.P.No.06 of 2020 seeking to condone the delay in filing a petition to set aside the order passed in M.C.No.148 of 2016 is also perfectly in order as the said condone delay petition is filed without any proper explanation for the delay of 540 days. Thereby, the same does not require any interference of this Court.

8. With the above observation, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

02.04.2024

Index : Yes/No
Speaking order/Non-speaking order
Neutral citation : Yes/No
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M.DHANDAPANI, J.

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To

The Additional Principal Family Judge, Coimbatore

Crl.R.C.No.76 of 2022
and
Crl.M.P.No.730 of 2022

02.04.2024