



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

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THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.2665 of 2024

1.Gayathiri

2.Minor Dhiya

... Petitioners

Vs.

G.Dharmaraja

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to transferring the FC CMP No.270/2023 in FC MC No.33/2017 from the file of the learned Family Court, Chengalpattu to any other competent Court.

For Petitioner : Mr.Rahul Jagannathan

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This criminal original petition has been filed seeking for transfer of FC CMP No.270 of 2023 in F.C.M.C.No.33 of 2017 pending on the file of the learned Family Court, Chengalpattu to any other competent Court.

2.The grievance of the petitioner is that the main order was passed in the



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maintenance case directing the respondent to pay a sum of Rs.15,000/- per month as maintenance. The same was challenged in CrI.R.C.No.884 of 2023 and this revision is pending before this Court. However, this Court did not grant any interim order staying the operation of the order passed in the maintenance case. Thus, there is a huge arrears of maintenance that is due and payable by the respondent from the year 2017 onwards. Out of the sum of Rs.9,45,000/- only a sum of Rs.1,40,000/- has been paid till March 2023.

3.In view of the above, the petitioner had a filed petition seeking for issuance of distress warrant against the respondent for the non-payment of the maintenance amount. However, this petition was not taken up for hearing by the Court below on the ground that there are pending miscellaneous petitions filed for recovery of maintenance amount. Hence, the petitioner has approached this Court seeking for transfer of the case.

4.When the matter came up during the earlier occasion, this Court directed the Court below to file a status report before this Court. Accordingly, a status report dated 22.02.2024 has been submitted before this Court. It is seen from this status report that the petitioner had filed FC CMP No.92 of 2021 for attachment of salary and the same was ordered on 10.12.2021. From the year 2022, an amount of Rs.7366/- was sent to the Court by way of Demand Draft and thereby, a total amount



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of Rs.1,69,418/- was realized. Thereafter, the petitioner filed other applications in FC CMP Nos.12 of 2022, 157 of 2023 and 270 of 2023 for payment of the arrears of maintenance and also for issuance of distress warrant for the arrest of the respondent for the non-payment of the arrears of maintenance amount.

5.It is further stated in the report that the Senior General Manager of Heavy Vehicles Factory, Avadi was directed to recover one third of the salary per month (Contribution towards PF cannot be deducted from the salary) and to send it to the Family Court, Chengalpattu. Accordingly, a sum of Rs.7366/- was deducted from February 2022 to February 2024 except for the months of July 2023 and November 2023.

6.The Court below seems to be under the impression that there is recovery of maintenance that is taking place pursuant to the order passed and hence, the application filed for issuance of distress warrant can be kept pending.

7.In the considered view of this Court, there is a huge arrears of maintenance that is due and payable to the petitioner and her minor child. Unless and otherwise, the respondent pays this maintenance amount, it will be very difficult for the petitioner to maintain herself and the child. Therefore, some amount of pressure



N.ANAND VENKATESH,J.

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has to be exerted on the respondent to pay the maintenance amount. Therefore, there shall be a direction to the Court below to proceed further to deal with the application filed by the petitioners to issue distress warrant against the respondent. This application shall be dealt with in accordance with law and final order shall be passed, within a period of six weeks from the date of receipt of copy of this order.

8.This criminal original petition is disposed of with the above directions.

04.03.2024

Index: Yes/No
Internet: Yes/No
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To

1.The Family Court, Chengalpattu

2.The Public Prosecutor,
High Court of Madras,
Chennai.

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