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CrI O.P. No.3793 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CrI.O.P.No.3793 of 2024

and

CrI. M.P. No.2793 of 2024

K.Nagaraj S/o. P. Kanagasabai

...Petitioner

Vs.

1. Ilavarasi W/o. Nagaraj

2. Minor Chandralekha

represented by her mother Mrs. Ilavarasi

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C.,

to set aside the part of the order of Judicial Magistrate Court,

Pappireddipatty passed in CrI. M.P. No.1 of 2024 in M.C. No.4 of 2019

on 08.01.2024 only to payment of cost of Rs.25,000/-.

For Petitioner

: Mr. P. Muthusamy

ORDER

This petition has been filed challenging the condition imposed by the Court below while allowing the application filed by the petitioner in CrI. M. P. No.1 of 2024 to recall the petitioner for marking the



documents.

2. Heard Mr. P. Muthusamy, learned counsel for the petitioner and carefully perused all the materials available on record.

3. The 1st respondent has initiated proceedings in M.C. No.4 of 2019 seeking for payment of maintenance to the 1st respondent and the minor child. The petitioner also filed a petition in H.M.O.P. No.39 of 2019 before Sub-Court, Harur seeking for relief of restitution and conjugal rights. This petition was allowed and the petitioner wanted to rely upon this order / judgment in the maintenance case. Therefore, he filed a petition to recall to mark the said document in Crl. M.P. No.1 of 2024.

4. The Court below allowed the said application vide order dated 08.01.2024, but however, imposed a condition that the petitioner shall pay a cost of Rs.25,000/- to the respondent on or before 19.01.2024. Aggrieved by the same, the present petition has been filed.

5. This Court carefully considered the submissions made by the



learned counsel appearing for the petitioner and materials available on record.

6. On careful reading of the order passed by the Court below, it is seen that the cross-examination of RW2 was completed on 15.09.2022. Thereafter, an attempt was made to amicably settle the dispute between the parties and they were referred to the Mediation Centre. However, the settlement did not go through and hence the matter was referred back to the Court on 28.12.2023. Even though the order was passed in the H.M.O.P. No.39 of 2024 on 11.08.2022, since the parties made an attempt to resolve the dispute amicably and since the order was received by the petitioner only on 26.09.2022 and by this time, the evidence was closed on 15.09.2022, the petitioner filed an application to recall and to mark this order. The respondent had also given no objection for this petition.

7. However, the Court below while allowing the application, imposed an exorbitant cost of Rs.25,000/- payable by the petitioner to the respondents on or before 19.01.2024. In the instant case, the petitioner



has already expressed his intention to live with the respondents and even though the petition for restitution and conjugal rights was allowed, for some reason, the 1st respondent is not prepared to live with the petitioner. Therefore, the petitioner cannot be blamed. Hence this Court is inclined to interfere with the cost imposed by the Court below and the same is hereby set aside.

8. In the result, this Criminal Original Petition is allowed and the condition imposed in the order of Judicial Magistrate Court, Pappireddipatty passed in Crl. M.P. No.1 of 2024 in M.C. No.4 of 2019 on 08.01.2024 with respect to payment of cost of Rs.25,000/- payable by the petitioner to the respondents, is hereby set aside. There shall be a direction to the Court below to complete the proceedings in M.C. No.4 of 2019 within a period of **two months** from the date of receipt of copy of this order.

22.02.2024

Index : Yes / No

Internet : Yes / No

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N.ANAND VENKATESH, J.,

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- To
1. The Judicial Magistrate Court, Pappireddipatty.
 2. The Public Prosecutor,
High Court of Madras,
Madras.

Crl.O.P.No.3793 of 2024

22.02.2024