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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.8594 of 2024

1.Minor Mithilashri

2.Rathna ... Petitioners

Vs.

Pushpagaran ... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to set aside the docket order passed by the learned Additional Magila Judicial Magistrate, Dharmapuri in Crl.M.P.No. Unnumbered of 2023 in M.C.No.06 of 2021 dated 11.01.2024.

For Petitioners : Mr.P.M.Jayachandran

O R D E R

This Criminal Original Petition is filed for recovery of arrears of maintenance for a period of 12 months been returned by the Additional Magila Judicial Magistrate, Dharmapuri on 11.01.2024.

2. Aggrieved by that, the present Criminal Original Petition is

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filed under Section 482 of Cr.P.C.

3. The Maintenance Case No.06 of 2021 filed under Section 125 of Cr.P.C., against the respondent was allowed on 23.08.2023 directing the respondent to pay the maintenance of Rs.6,000/- per month for the minor child and Rs.4,000/- per month for the wife. For recovery of money, petition under Section 125(3) Cr.P.C., was filed. The same was returned by the Additional Mahila Court, Dharmapuri on the ground that Section 125(3) Cr.P.C., prescribed twelve months limitation, for recovery of arrears, since for the 24 months, the same is not maintainable.

4. Being aggrieved, the present petition is filed.

5. The learned counsel appearing for the petitioners submits that since the decree for maintenance was passed only on 23.08.2023, the limitation for filing recovery of arrears commences only from that day and therefore, the petition filed for recovery of maintenance on 20.11.2023 is well within the limitation.

6. This Court finds that the said submissions is in accordance with law. The right to claim maintenance been ascertained by virtue of the order dated 23.08.2023. The order passed by the Magistrate in the

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petition filed under Section 125(3) Cr.P.C., clearly indicates the petitioners are entitled for maintenance from the date of filing the petition which is 20.11.2021. Therefore, the docket order passed by the learned Judicial Magistrate, Dharmapuri in Cr.M.P.No.unnumbered dated 11.01.2024 is set aside and trial Court is directed to number the Criminal Miscellaneous Petition and pass orders in accordance with law.

7. With the above direction, this Criminal Original Petition is disposed of .

08.04.2024

Index : Yes/No
Neutral Citation : Yes/No

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To

The Additional Magila Judicial Magistrate, Dharmapuri

Dr.G.JAYACHANDRAN,J.

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