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Crl.R.C.No.552 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.552 of 2022

and

Crl.M.P.Nos.5664 & 18844 of 2022

G.Sundararajan @ G.Suresh Babu

S/o.Late S.Gopu

... Petitioner

Vs.

Vanjulavalli

D/o.Saranathan

... Respondent

Prayer:

Criminal Revision Case has been filed under Sections 397 and 401 of Cr.P.C, praying to set aside the order dated 20.12.2021 passed in M.P.No.899 of 2021 in M.C.No.373 of 2016 on the file of the V Additional Family Court, Chennai and dismiss the petition by allowing this revision.

For Petitioner : Mr.S.S.Swaminathan

For Respondent : Ms.R.Mahalakshmi



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ORDER

This Criminal Revision has been filed seeking to set aside the order dated 20.12.2021 passed in M.P.No.899 of 2021 in M.C.No.373 of 2016 on the file of the V Additional Family Court, Chennai.

2. The petitioner herein is the respondent in the maintenance case in M.C.No.373 of 2016 filed by the respondent herein. The marriage between the petitioner and the respondent solemnized on 11.05.2006 and from the wedlock, they developed some issues. Due to difference of opinion, the petitioner herein filed a divorce petition in H.M.O.P.No.2075 of 2008 and both the petitioner and the respondent were referred to Mediation. During mediation, both of them were advised to reconsider their relationship and reason for difference of opinion and try to resolve the issues between them. In view of the above, H.M.O.P.No.2705 of 2008 was withdrawn and the petitioner and respondent reunited. Again, on account of difference of



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opinion between them, H.M.O.P.No.591 of 2011 filed by the petitioner before the Family Court, Chennai, later, at the instance of the respondent, the same was transferred to the Family Court, Trichy and renumbered as H.M.O.P.No.361 of 2014. After full contest, the Family Court, Trichy, allowed the divorce petition on 10.06.2016 by dissolving the marriage between them, against which, the respondent filed an appeal in C.M.A.(MD) No.878 of 2016, which was dismissed on 03.07.2019. Thereafter, the petitioner herein remarried and now leading a happy family life with his wife and two children. Unable to bear the same, the respondent filed a maintenance petition in M.C.No.373 of 2016, during the pendency of the maintenance case, in the year 2018, the respondent filed an interim maintenance petition in M.P.No.663 of 2018 in M.C.No.373 of 2016. The petitioner was set *ex parte* and the Family Court, Chennai, ordered an interim maintenance of Rs.10,000/- per month payable to the respondent from the date of filing of the petition i.e., 12.02.2018 by its order dated 22.11.2018.



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Thereafter, the respondent filed M.P.No.899 of 2021 in M.C.No.373 of 2016 to issue warrant against the petitioner for non-payment of arrears of interim maintenance. The Family Court issued notice and private notice to the petitioner. Thereafter, the case was adjourned periodically for filing counter and finally an order of arrest to the petitioner was issued on 20.12.2021 against which the present revision filed.

3. Though the petitioner as well as the respondent advanced their submissions making allegations and counter allegations against each other, the undisputed fact is that the marriage between the petitioner and the respondent took place on 11.05.2006, thereafter, a divorce petition in H.M.O.P.No.2705 of 2008 filed by the petitioner withdrawn and second divorce petition H.M.O.P.No.591 of 2011 was originally filed before the Family Court, Chennai, subsequently, transferred to Family Court, Trichy and renumbered as H.M.O.P.No.361 of 2014 and divorce was granted on



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10.06.2016, thereafter the respondent filed an appeal in CMA(MD)No.878 of 2016 which was dismissed on 03.07.2019 and the order of divorce granted to the petitioner on 10.06.2016 has attained finality.

4. The contention of the respondent is that she had filed M.C.No.373 of 2016 seeking maintenance from the petitioner to pay Rs.30,000/- per month since the respondent was unemployed. Having found that the petitioner was receiving a salary of Rs.1,20,000/-, the Family Court directed the petitioner to pay a sum of Rs.10,000/- per month to the respondent as interim maintenance on 22.11.2018.

5. The contention of the petitioner is that on 20.12.2021, the recording of the Court below would show that the petition filed by the respondent/wife was originally numbered as E.P.No. 18 of 2021 later, it was renumbered as M.P.No.899 of 2021. Further, it was recorded on 20.12.2021



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that the counter not filed, the petitioner called absent, issue warrant and call on 25.01.2022.

6. The learned counsel for petitioner submitted that at the time of admission, he had deposited a sum of Rs.1,50,000/- in M.C. No.373 of 2016 and he is paying the interim maintenance of Rs.10,000/- per month till date. He further submitted that earlier the petitioner had paid Rs.30,000/- towards arrears of maintenance on 07.04.2022, acknowledgment received from the respondent which is at Page No.15 of the typed set of papers.

7. Today, the learned counsel for the petitioner produced photostat copy of demand draft of Rs.1,60,000/- deposited to the credit of M.C.No.373 of 2016 and the petitioner is paying the interim maintenance amount of Rs.10,000/- per month from July 2022 till date.



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8. The learned counsel for petitioner has no objection for the respondent to withdraw the maintenance amount deposited to the credit of M.C. No.373 of 2016 but his only apprehension is that the maintenance case though reached final stage by filing petitions to reopen, recall the witness and to produce some documents would protract the proceedings endlessly.

9. Be that as it may, the maintenance case has come to penultimate stage. The Family Court, Chennai, is directed to conclude the proceedings in M.C.No.373 of 2016 without any further delay, preferably, within a period of three months from the date of receipt of a copy of this order. The petitioner and the respondent agree to co-operate for the early disposal of the maintenance case in M.C.No.373 of 2016. The respondent is at liberty to approach the Family Court, Chennai to withdraw the amount deposited to the credit of M.C.No.373 of 2016. The Family Court, Chennai, shall permit the respondent to withdraw the maintenance amount so deposited and also future



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deposits dispensing notice to the petitioner.

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10. With the above directions, the Criminal Revision Case is allowed and the impugned order dated 20.12.2021 in M.P.No.899 of 2021 in M.C.No.373 of 2016 is hereby set aside. Consequently, connected miscellaneous petitions are closed.

21.02.2024

Index : Yes/No

Internet : Yes/No

Speaing order/Non-speaking order

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To
V Additional Family Court,
Chennai.



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