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Crl.R.C.No.729 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

Crl.R.C.No.729 of 2023

B.Harun

... Petitioner

Vs.

Boominathan

... Respondent

Prayer : Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C, praying to allow the above Criminal Revision Case by setting aside the order dated 29.12.2022 passed in C.M.P.No.84 of 2022 in M.C.No.7 of 2017 on the file of the Principal Family Court, Coimbatore.

For Petitioner : Mr.K.Govi Ganesan

For Respondent : Mr.A.Tamilarasan

ORDER

This Criminal Revision Case is filed against the order of the Principal Family Court, Coimbatore dated 29.12.2022 passed in C.M.P.No.84 of 2022 in M.C.No.7 of 2017.



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2. The case of the petitioner is that, the respondent and the petitioner are father and son. The respondent has filed a maintenance case u/s 125 of Cr.P.C. in M.C.No.7 of 2017 on the file of Principal Family Court, Coimbatore claiming monthly maintenance of Rs.25,000/-. The Trial Court, passed an exparte order, dated 13.07.2017 awarding a sum of Rs.15,000/- p.m. as maintenance to the respondent. Aggrieved by the same, the petitioner has filed a petition u/s 126(2) of Cr.P.C. in C.M.P.No.84 of 2022 in M.C.No.7 of 2022 and the trial court has dismissed the same by order dated 29.12.2022 on the ground that the petition was not filed within 3 months from the date of exparte order or from the date of knowledge i.e., 04.11.2021. Challenging the same, the present revision is filed by the petitioner/son.

3. The learned counsel appearing for the petitioner submitted that, the respondent deserted the petitioner and his mother and living along with another women and he has also taken valuable jewels and other articles from the petitioner's house and his whereabouts are not known to the petitioner. Further, he submitted that, taking advantage of the fact that the petitioner was residing in Mumbai along with his family, the



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respondent has filed maintenance against the petitioner and got the exparte order in his favour, which is wholly unsustainable, however, without properly adjudicating the same, the trial court had dismissed the petition filed by the petitioner, which is also wholly unsustainable. However, he submitted that the petitioner is ready to pay a sum of Rs.2,000/- as interim monthly maintenance to the respondent. Further, he submitted that this Court may direct the trial court to restore the M.C. and dispose the M.C. in accordance with law within a specified time, after providing opportunity to the petitioner.

4. The learned counsel appearing for the respondent has no objection for the said order being passed.

5. In view of the fair submissions made by the parties, without going into the merits of the case, this Court is inclined to pass the following orders :-

(i) the petitioner is directed to pay a sum of Rs.2,000/- p.m. to the respondent as interim maintenance;

(ii) the petitioner is directed to pay the entire



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arrears of maintenance at the rate of Rs.2,000/- p.m. to the respondent within a period of four (4) weeks from the date of receipt of a copy of this order;

(iii) the petitioner is directed to continue to pay the above modified interim maintenance amount to the respondent on or before the 5th day of every English Calendar month till the disposal of M.C.No.7 of 2017;

(iv) the petitioner is directed to file proof with regard to payment of entire arrears of maintenance to the respondent before the trial court and thereafter, the trial court is directed to restore the maintenance case in M.C.No.7 of 2017 and dispose of the same in accordance with law, within a period of five (5) months thereafter, after providing opportunity to the petitioner/son.

6. With the above directions, the Criminal Revision Case is disposed of.

21.06.2024

Index : Yes / No
Speaking order / Non-speaking order
NCC : Yes / No
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To
The Principal Family Court, Coimbatore.



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M.DHANDAPANI, J.

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