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Crl.O.P.No.9193 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.9193 of 2024
& Crl.M.P.No.6453 of 2024

P.Selvan

... Petitioner/Accused

/versus/

Minor Anushya,
Represented by Guardian/Mother,
Brindha,
Door No.3/131, S.P.Vadugupalayam,
Senjeriputhur Post,
Sulur Taluk, Coimbatore District.

... Respondent/Petitioner

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to set aside the order dated 19.02.2024 in C.M.P.No.981 of 2024 in M.C.No.15 of 2019 on the file of the Judicial Magistrate No.II, Pollachi and permit the petitioner to cross examine the P.W.1.

For Petitioner : Ms.A.Parthasarathy and Associates

For Respondent : No appearance



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ORDER

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The petitioner herein is the respondent against who his minor daughter has filed petition for maintenance.

2. The petition is pending for past five years. When P.W.1 was examined in chief on 09.10.2023, the petitioner did not cross examine her. The trial Court adjourned the matter for cross examination of further witnesses. Accordingly, on 27.10.2023, P.W.2 was examined, that witness also not cross examined by the petitioner and thereafter, he has taken out an application to recall P.W.1 to cross examine her. The trial Court allowed that application on condition that he should pay cost of Rs.25,000/- on or before 19.02.2024, since the petitioner failed to pay the cost within the time stipulated, his application was dismissed.

3. Being aggrieved, the present petition is filed. The Learned Counsel appearing for the petitioner states that the maintenance itself is for Rs.10,000/- per month. Whereas, the trial Court has imposed costs of Rs.25,000/- to recall P.W.1.

4. This Court on perusing the impugned order passed by the trial



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Court finds that there is justification in imposing costs of Rs.25,000/-. The maintenance is sought by the minor child of the petitioner who alleged to have been born through his intimacy with mother of the minor child. The maintenance petition is pending for more than five years. He has not paid any maintenance so far. For the said reason, the trial Court has imposed costs of Rs.25,000/- to recall P.W.1.

5. The Learned Counsel appearing for the petitioner states that when the maintenance itself is for Rs.10,000/- per month, the costs of Rs.25,000/- is excessive. Whereas, the Learned Counsel failed to take note of the fact that the minor daughter of the petitioner is awaiting maintenance from the petitioner for more than five years.

6. In the light of the above fact, this Court while finds that imposed cost is justifiable, the costs of Rs.25,000/- is reduced to Rs.15,000/- payable on or before 30.04.2024. On such payment, the petitioner herein is permitted to the cross examine P.W.1 on the next hearing date.



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7. With this observation, these *Criminal Original Petition is*

disposed of. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No

Neutral Citation : Yes/No

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Copy to:-

1. The Judicial Magistrate No.II, Pollachi.

DR.G.JAYACHANDRAN,J.



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