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Crl.M.P.No.7505 of 2023 in Crl.R.C.No.1091 of 2021

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M.NIRMAL KUMAR, J.

This Criminal Miscellaneous Petition has been filed to restore Crl.R.C.No.1091 of 2021 which was dismissed by this Court as infructuous by order, dated 15.12.2022.

2.This Court on 28.02.2024 had passed the following order:

“The learned counsel for petitioner as well as respondent made their submissions in detail. The primary contention of the learned counsel for petitioner is that the appeal was dismissed for the reason that the petitioner failed to file counter for years together. Referring to the judgment he submitted that every hearing it has been posted for counter. Finally, the counter was found from the records as could be seen from the judgment. It is not the fault of the petitioner. The petitioner filed his counter. For this reason alone the impugned order needs to be set aside.

2.He further submitted that the petitioner is 2nd officer in Merchant Navy and he was in sail. For that reason he was unable to attend the trial but his advocate appeared and filed a memo which was not considered. He further



submitted that the trial Court passing an ex-parte order directing the petitioner to make payment of Rs.2.5 lakhs per month as maintenance is exorbitant. It is beyond the petitioner's capacity to pay the amount. This Court at the stage of admission directed the petitioner to pay Rs.10 lakhs before the Family Court. He had paid the same, which was also withdrawn by the respondent.

3.The learned counsel for respondent submitted that the marriage between the petitioner and the respondent took place in the year 2002 and till 2013 she was with the petitioner's family. The petitioner engaged in high seas and always on sail. In the meanwhile the petitioner developed extra marriageable affair and for that reason the respondent in the year 2013 was chased out from the matrimonial home. The respondent for the marriage sold out her only property situated at Kilpauk. Using the said money the marriage was conducted. She further submitted that the respondent became pregnant but by the force of petitioner the same was aborted and thereafter she could not get conceived. When the respondent filed domestic violence complaint against the petitioner and his family members, the family members approached this Court and filed a quash application. This Court stayed the proceedings of the domestic violence complaint with the condition that the family members must



ensure that the petitioner will pay amount of Rs.10,000/- per month towards maintenance and the petitioner also complied with the condition making the payment of Rs.10,000/- which would prove that the petitioner giving reason that he was engaged in high seas and hence he could not appear in the maintenance case would not be proper.

4.At this stage, learned counsel for petitioner as well as respondent Consultation submit that they would have consultation with their respective clients to find out whether the entire issue can be settled amicably so that quietus can be given to the divorce petition, maintenance case as well as domestic violence complaint in one go.

5.Learned counsel for the respondent on instructions submitted that the respondent would be satisfied if Rs.25 lakhs is paid. Learned counsel for petitioner seeks a week's time to get instructions from his client.

6.Post the matter on 05.03.2024 under the caption 'For orders'."

3.In continuation and conjunction to the above order, this Court is passing the following order.



4.The learned counsel for the petitioner fairly submitted that on earlier occasion, the petitioner gave an impression to him that the petitioner is ready for settlement. For that reason, the learned counsel for the petitioner represented that the issue can be resolved between the petitioner and the respondent. He further submits that he has been made to believe as though the petitioner was ready for compromise and after the respondent's proposal was put forth to him, the petitioner does not show any interest and not willing to settle the issue.

5.In view of the above and finding that the petitioner not made any ground to interfere with the order of this Court in Crl.R.C.No.1091 of 2021, dated 15.12.2022, this Court is not inclined to entertain this petition. Accordingly, this criminal miscellaneous petition stands dismissed.

12.03.2024

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