



Crl.RC.No.746 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.04.2024

CORAM:

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

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Lakshmi

...Petitioner

Vs.

Sagadevan

...Respondent

Petition filed under Section 397 r/w 401 of Code of Criminal Procedure to set aside the returned docket order dated 01.04.2024 made in unnumbered Criminal Miscellaneous Petition in FCMC.No.62/2017 on the file of the Family Court, Dharmapuri.

For Petitioner : M/s.A.E.Ravi Chandran

ORDER

This Criminal Revision Case has been filed seeking to set aside the Returned Docket Order dated 01.04.2024 made in unnumbered C.M.P in FCMC.No.62/2017 on the file of the Family Court, Dharmapuri.



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2. The petitioner and the respondent herein are husband and wife. It

is the case of the revision petitioner that initially, she had filed a petition under section 125 of Cr.P.C in M.C.No.62 of 2017 on the file of the Family Court, Dharmapuri claiming monthly maintenance from the respondent, the said petition was ordered. Subsequently, the petitioner had filed a Criminal Revision before this Court in Crl.R.C.No.393 of 2022 seeking modification of the order passed in M.C.No.62 of 2017 wherein, this Court had enhanced the maintenance amount awarded by the trial court. Since, the said order has not been complied with by the respondent, the petitioner was constrained to file a petition under section 128 of Cr.P.C in Crl.M.P.No.169 of 2022 in FCMC.No.62/2017 before the trial court seeking to enforce the order passed by this Court in Crl.R.C.No.393 of 2022. Pending the same, the petitioner had filed a Criminal Miscellaneous Petition under section 128 of Cr.P.C seeking 50% of the monetary benefits which will be granted to the respondent on account of his retirement, however, the same was returned by the trial court vide docket order dated 01.04.2024 on the ground that the prayer sought for by the petitioner is not maintainable under section 128 of Cr.P.C. Challenging the said docket order, the present revision has been



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filed.

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3. Learned counsel for the petitioner would submit that the Section under which the unnumbered Criminal miscellaneous petition has been filed was wrongly mentioned as 128 of Cr.P.C instead of Section 127 of Cr.P.C. Therefore, the petitioner may be permitted to represent the said unnumbered Crl.M.P. by quoting appropriate provision which may be considered by the trial court and appropriate orders be passed on the same.

4. Since, no adverse order is being passed against the respondent, notice to the respondent is dispensed with.

5. In view of the limited relief sought for by the petitioner, this Court without expressing any opinion on the merits of the case, is inclined to permit the petitioner to represent the unnumbered Criminal Miscellaneous Petition filed in FCMC.No. 62 of 2017 by quoting appropriate provision before the trial court. Upon receipt of the same, the trial court is directed to appropriate orders within a period of three months from the date of receipt of a copy of this order.



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M.DHANDAPANI, J.

NHS

6. Accordingly, this Criminal Revision Case stands disposed of.

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NHS

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To
The Family Court,
Dharmapuri.

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