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Crl.R.C.No.1073 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.R.C.No.1073 of 2024
and Crl.M.P.No.9109 of 2024**

K.Rajendran

... Petitioner

Vs.

R.Kanaga

... Respondent

PRAYER : Criminal Revision Case filed under Section 397 r/w. 401 of the code of Criminal Procedure, 1973 to set aside the impugned order dated 05.06.2024 passed in C.M.P.No.5153 of 2022 in M.C.No.8 of 2014 on the file of the learned Judicial Magistrate, Harur.

For Petitioner : Mr.M.Rajasekhar

ORDER

The Criminal Revision Case is filed to set aside the impugned order dated 05.06.2024 passed in C.M.P.No.5153 of 2022 in M.C.No.8 of 2014 by the learned Judicial Magistrate, Harur.



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2. The learned counsel appearing for the petitioner submits that the marriage between the petitioner and the respondent was performed about 25 years ago and there was a matrimonial dispute between them and they are living separately. While so, the respondent filed a maintenance case in M.C.No.8 of 2014 before the learned Judicial Magistrate, Harur, and the trial Court has ordered a sum of Rs.5,000/- as monthly maintenance to be paid by the petitioner to the respondent and directed the petitioner to pay the arrears amount (i.e.,) from July 2014 to July 2022 on or before 05.08.2022 to the respondent. Thereafter, she filed a petition in C.M.P.No.5153 of 2022 before the trial Court for attachment of pension of the petitioner and the trial Court, overlooking the real factum, directed the garnishee to attach a sum of Rs.6692/- every month from the pension of the petitioner and deposit the said amount before the Court, until further orders. Aggrieved over the same, the petitioner has filed the present petition.

3. The learned counsel appearing for the petitioner submits that the



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pension of the petitioner cannot be attached at any cost and in support of his contention, he relied on the order of this Court dated 09.03.2021 passed in W.P(MD).No.22457 of 2017.

4. It is not in dispute that the petitioner and the respondent are husband and wife and they are living separately. The respondent filed a maintenance case in M.C.No.8 of 2014 before the learned Judicial Magistrate, Harur, wherein, the trial Court has ordered a sum of Rs.5,000/- as monthly maintenance to be paid by the petitioner to the respondent and directed the petitioner to pay the arrears amount (i.e.,) from July 2014 to July 2022 on or before 05.08.2022. Since the petitioner has not paid the monthly maintenance and the arrears amount, the respondent has filed a petition in C.M.P.No.5153 of 2022, pursuant to which, the trial Court has directed the garnishee to attach a sum of Rs.6692/- every month from the pension of the petitioner and deposit the same before the Court until further orders, which does not suffer from any illegality or irregularity. The petitioner deliberately has not paid the monthly maintenance and arrears



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amount as ordered by the trial Court and thereby, the trial Court has directed the garnishee to attach a sum of Rs.6692/- every month from the pension of the petitioner. The decision relied on by the learned counsel appearing for the petitioner is not applicable to the case on hand, since the trial Court exercising its power available under Section 125 Cr.P.C, has attached the pension of the petitioner. Hence, this Court is not inclined to interfere with the order dated 05.06.2024 passed in C.M.P.No.5153 of 2022 in M.C.No.8 of 2014 by the learned Judicial Magistrate, Harur.

5. Accordingly, the Criminal Revision Case is dismissed.
Connected miscellaneous petition is closed.

10.07.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To

1. The learned Judicial Magistrate, Harur.

2. The Public Prosecutor,
Madras High Court.



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M.DHANDAPANI, J.

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