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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2024

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THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

Crl.RC.No.1221 of 2023
and Crl.MP.No.9570 of 2023

Kasivel

... Petitioner

-Vs-

Malar

... Respondents

Prayer: Criminal revision is filed under Sections 397 and 401 of the Criminal Procedure Code, to set aside the order passed in Crl.MP.No.5634 of 2021 in MC.No.20 of 2020 on the file of the Judicial Magistrate, Thirukovilur, Kallakurichi District.

For petitioner : Mr.S.Suresh

For Respondent : Mr.Sabarish

ORDER

The Criminal Revision is filed against the order in Crl.MP.No.5634 of 2021 in MC.No.20 of 2020 on the file of the Judicial Magistrate, Thirukovilur, Kallakurichi District.



2. It is the case of the respondent that the marriage between her and the petitioner was solemnised in the year 1976. Since the respondent indulged in adultery, she deserted the petitioner and they have been living separately from the year 1981 and thereafter, the respondent got married with another man. Out the said wedlock, the respondent has blessed with one female child in the year 1986. In the year 2020, the respondent filed a petition for maintenance and the same was taken on file in MC.No.20 of 2020. The Family Court, vide order dated 16.09.2021, passed an exparte order by directing the petitioner to pay a sum of Rs.4000/- and again the respondent filed an execution petition to pay arrears and maintenance. The same was allowed vide order dated 27.04.2023. Challenging the same, the present petition has been filed.

3. Learned counsel for the petitioner submitted that after desertion of 20 years, the respondent has filed maintenance case and obtained exparte order. To set aside the said exparte order the petitioner filed a petition with delay in CrI.MP.No.3758 & 3759 of 2021 and the same was dismissed on 31.05.2023 without considering the entire fact. The learned counsel submitted that the total arrears is at Rs.1,06,000/- . Out of which, the petitioner has paid a sum of Rs.20,000/- However, the petitioner is ready to pay the entire arrears of



maintenance to the respondent. If the petitioner paid entire arrears, this Court may direct the Family Court to restore the maintenance case and to give opportunity to the petitioner.

4. Learned counsel appearing for the respondent have no serious objection.

5. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

6. Considering the facts and circumstances of the case and considering the limited request made by the learned counsel for the petitioner, this Court is inclined to pass the following orders:

(i) The order in MC.No.20 of 2020 on the file of the Judicial Magistrate, Thirukovilure dated 16.09.2021 is set aside:

(ii) The petitioner is directed to deposit the entire arrears of maintenance Rs.86,000/- (Rupees Eightly six thousand only) in the credit of M.C.No.20 of 2020 within a



period of four weeks from the date of receipt of a copy of this order; and

(iii) After perusal of such receipt, the Family Court shall restore the maintenance case and pass appropriate orders after providing opportunity to the petitioner and the respondent, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

7. With the above terms and observations, the revision is allowed.

Consequently, connected miscellaneous petition is also closed.

18.04.2024

Index : Yes/No

Internet: Yes/No

Speaking Order : Yes/No

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To

The Judicial Magistrate, Thirukovilur, Kallakurichi District.



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5



M.DHANDAPANI,J.

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18.04.2024