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Crl.R.C.No.1117 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1117 of 2024

Jeevanantham

... Petitioner

Vs.

Lavanya
Respondent

...

PRAYER : Criminal Revision Case filed under Sections 397 and 401 of the code of Criminal Procedure, to set aside the docket order dated 18.06.2024 passed in Crl.M.P.SR.No.3071 of 2024 in M.C.No.18 of 2023 on the file of the Family Court, Erode and decide the same on merits.

For Petitioner : Mr.B.Thirumalai

ORDER

The Criminal Revision Case is filed against the impugned docket order dated 18.06.2024 passed in Crl.M.P.SR.No.3071 of 2024 in



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M.C.No.18 of 2023 by the Family Court, Erode.

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2. The learned counsel appearing for the petitioner submits that the petitioner is the husband of the respondent and due to matrimonial dispute, they are living separately. While so, the respondent has filed Domestic Violence Case before the Additional Mahila Court, Erode in D.V.C.No.8 of 2022 and on 05.01.2024, the trial Court has partly allowed the petition by directing the petitioner to pay the maintenance amount of Rs.3,000/- per month from 11.02.2022. Thereafter, she again filed maintenance petition under Section 125 Cr.P.C in M.C.No.18 of 2023 before the Family Court, Erode, seeking monthly maintenance of Rs.50,000/-, which is not maintainable, since she has already exhausted her remedy in the Domestic Violence Case by claiming maintenance under Section 125 Cr.P.C. Therefore, the petitioner has filed a petition to dismiss the maintenance case filed by the respondent in Crl.M.P.SR.No.3071 of 2024 in M.C.No.18 of 2023, however, the trial Court has returned the petition as not maintainable. Challenging the same, the present petition has been filed.



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3. The learned counsel appearing for the petitioner submits that a similar issue came up for consideration before this Court in Crl.O.P.Nos.27507 and 10089 of 2017, wherein, this Court has held that there is no provision available under the Code of Criminal Procedure empowering the Magistrate to order for maintenance under Section 125 Cr.P.C., when an order for maintenance has already been granted under Domestic Violence Act or any other enactments. However, the trial Court has refused to dismiss the maintenance case filed by the respondent and returned the petition filed by the petitioner as not maintainable. Challenging the same, the present petition has been filed.

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

5. It appears that the petitioner has filed a petition in



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CrI.M.P.SR.No.3071 of 2024 in M.C.No.18 of 2023 on the ground that the respondent has filed D.V.C.No.8 of 2022 before the Additional Mahila Court, Erode, against the petitioner, wherein, the trial Court partly allowed the petition by directing the petitioner to pay the maintenance amount of Rs.3,000/- per month from 11.02.2022 and thereafter, she again filed maintenance case in M.C.No.18 of 2023 before the Family Court, Erode, seeking Rs.50,000/- as monthly maintenance. On 29.05.2024, the trial Court has questioned the petitioner as to how this petition is maintainable, pursuant to the same, he has given reply on 11.06.2024 and on 11.06.2024, when the matter was taken up, the petitioner sought time and the matter was adjourned to 18.06.2024. On 18.06.2024, since the previous direction was not properly complied with by the petitioner, the trial Court has again questioned the petitioner as to how this petition is maintainable. The petitioner, without giving proper reply to the same, has filed this petition challenging the docket order dated 18.06.2024 and firstly, he has to give reply to the query raised by the trial Court and thereafter, the Court will decide as to whether the petition is maintainable or not, based on the reply



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given by him. Before deciding on the petition as to whether it is maintainable or not, he has directly filed this petition which is not justifiable. However, it is left open to the petitioner to challenge the order if any passed in the maintenance case, in the manner known to law.

6. Accordingly, the Criminal Revision Case is dismissed.

01.07.2024

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To
The Family Court, Erode.



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M.DHANDAPANI, J.

ssb

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