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CrI.O.P.No.15944 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.15944 of 2024

Gayathri.

... Petitioner

/versus/

Bharathkumar.

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C and 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to direct the Learned Family Judge, Erode to speedy dispose of CrI.M.P.No.1057 of 2023 in MC No.15 of 2020 pending on the file of the Learned Family Judge, Erode.

For Petitioner : Ms.V.Jayavigneshwari

ORDER

This Criminal Original Petition is filed under Section 128 of Cr.P.C., for recovery of the maintenance arrears not disposed in spite of it been filed one year ago. Hence, petition is filed seeking direction to the Family Court, Erode to expedite the enquiry in the said application in CrI.M.P.No.1057 of 2023.



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2. Since the matter relates to payment of maintenance and delay

found to be enormous, this Court called for report from the concern Family Court, Erode. The Learned Judge, Erode has responded *vide* letter dated 08.08.2024, wherein, it is stated that since the petitioner herein has taken notice to the respondent husband to the old address, notice returned unserved. In spite of repeated adjournment, to take fresh notice to the correct address, the petitioner has paid batta only for the old address and that has been cited as reason for delay.

3. However, the Learned Counsel for the petitioner states that this is last known address of the respondent which has been furnished to the Court for service. In the said address, the respondent as well as their parents are living. Furthermore, it is stated that in the application filed for Restitution of Conjugal Rights, the respondent received summons from the same address. It is also stated that the application for substitute service has been filed by the petitioner and same is pending.

4. In the light of the fact that for completion of service, the matter is delayed for more than one year, it is appropriate for the Learned Judge, Family Court, Erode to allow the substitute service application so that, the



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petitioner can take out paper publication lieu of notice and proceed further.

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5. Accordingly, this Criminal Original Petition is disposed of directing the Family Court, Erode to pass appropriate order in the substitute service application filed by the petitioner herein and pending. Further, the Learned Judge can also issue notice to the address for which batta paid since it is stated that the respondent family members are residing in the same address. In any event, the process of service should be completed within a period of two months and the matter shall proceed to the next stage.

6. With this observation, this Criminal Original Petition is disposed of.

22.08.2024

Index : Yes/No.

Neutral Citation : Yes/No.

bsm

To:-

1. The Learned Family Judge, Erode.



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Dr.G.JAYACHANDRAN, J.

bsm

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