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Crl.R.C.No.13 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.13 of 2024

C.Ethiraj

... Petitioner

Vs.

U.Lavanya

... Respondent

Prayer : Criminal Revision Case filed under Sections 397 r/w 401 of Criminal Procedure Code, praying to set aside the order passed in M.P.No.541 of 2023 in M.C.No.215 of 2018 dated 01.04.2023 passed by the learned 3rd Additional Family Court, Chennai.

For Petitioner : Mr.P.Muthamizhselvakumar

For Respondent : No appearance

ORDER

This Criminal Revision Case has been filed against the order dated 01.04.2023 made in M.P.No.541 of 2023 in M.C.No.215 of 2018 passed by the learned III Additional Family Court, Chennai.



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2. The marriage between the petitioner and the respondent was solemnized on 14.04.2014 as per Hindu rights and customs at Sree Balakoti Thirumana Mandapam at T.H.Road, Minjur before the elders and family friends. Due to matrimonial dispute, they were living separately. Thereafter, the respondent/wife filed a maintenance case in M.C.No.215 of 2018 before the learned III Additional Family Court, Chennai and the trial court passed an ex parte order on 15.11.2019 by directing the petitioner to pay a sum of Rs.15,000/- p.m. to the respondent towards maintenance. However, the respondent not paid the said maintenance amount to the respondent, thereby the respondent filed a petition u/s 125(3) Cr.P.C. in M.P.No.215 of 2021 with a calculation memo directing the petitioner to pay Rs.7,50,000/-. Thereafter, the petitioner had filed set aside application on 25.11.2022 and the same was returned by the trial court on 13.04.2023. On 07.11.2022, the trial court in the docket order directed the petitioner pay not less than Rs.1,00,000/- on or before 19.11.2022, however, the same was not complied by the petitioner. Thereafter, the petitioner paid the conditional amount of Rs.1 lakh to the respondent in the open court on 18.03.2023, which was also recorded by the trial court. After issuing NBW warrant, the petitioner had



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approached the trial court for surrender and to recall the NBW warrant on 18.04.2023, which was taken on file in M.P.No.541 of 2023 and the same was dismissed on the ground that the order was not complied. Aggrieved by the same, the petitioner has filed the present revision before this court.

3. Learned counsel for the petitioner submitted that, though the petitioner have valuable grounds for adjudicating the issue before the trial court, however based on the exparte order, the petitioner was directed to pay a huge amount, which is wholly unsustainable, since the petitioner is only a Coolie. However, the petitioner agreed to pay the entire arrears of maintenance as on date to the tune of Rs.10,00,000/- by way of monthly installment and he is ready to pay Rs.1,00,000/- every month. Hence, the learned counsel, on instructions, submitted that the petitioner is ready to deposit Rs.2,00,000/- within a period of two weeks and on such deposit, the trial court may be directed to recall the NBW warrant and after recalling the warrant, the petitioner is ready to pay Rs.1,00,000/- every month for a period of 8 months, without any default. After deposit of the entire arrears of maintenance, the trial court may be directed to set aside



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the exparte order without referring to the condone delay petition and thereafter, pass appropriate orders in the maintenance case within a period of four months after providing opportunity to the petitioner as well as the respondent. Accordingly, he prays for appropriate orders.

4. Though name of the learned counsel for the respondent was printed in the cause list, however, no one appeared on behalf of the respondent. Considering the pendency of this revision, this Court is inclined to dispose of this revision based on the materials available on record.

5. Considering the limited request sought for by the petitioner, this court, without going into the merits of the case, is inclined to pass the following orders :-

(i) the petitioner is directed to pay a sum of Rs.2,00,000/- to the respondent, within a period of two weeks from the date of receipt of a copy of this order and on such payment, the trial court is directed to recall the NBW warrant as against the petitioner;



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(ii) after recalling the warrant, the petitioner is directed to pay Rs.1,00,000/- to the respondent for a period of 8 months, without any default and after deposit of the entire arrears of maintenance, the trial court is directed to set aside the exparte order without referring to the condone delay petition;

(iii) thereafter, the trial court is directed to pass appropriate orders in the maintenance case in M.C.No.215 of 2021 within a period of four months, after providing opportunity to the petitioner as well as the respondent;

(iv) if the petitioner fails to comply with any of the above directions issued by this court, the respondent is at liberty to proceed the matter as against the petitioner in accordance with law.

6. With the above directions, this Criminal Revision Case is disposed of.

01.07.2024

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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M.DHANDAPANI, J.

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To

The III Additional Family Court, Chennai.

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