



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2024

CORAM

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

Crl.RC.No.1840 of 2023
and Crl.MP.No.17355 of 2023

N.Murugan

... Petitioner

-Vs-

1.S.Kavitha

2.M.K.Taniska,
minor rep.by her mother
and guardian/first respondent

... Respondents

Prayer: Criminal revision is filed under Section 397 r/w. 401 of the Criminal Procedure Code, to set aside the order dated 18.11.2021 passed in M.C.No.46 of 2017 on the file of the III Additional Family Court, Chennai, by allowing the present Revision Petition.

For petitioner : Ms.Rohini Ravikumar

For Respondents : Mr.Ajith Kumar



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ORDER

The Criminal Revision Case is filed against the order dated 18.11.2021 passed in M.C.No.46 of 2017 by the III Additional Family Court, Chennai.

2. The facts of the case are that the petitioner has married the first respondent on 23.05.2013 and out of wedlock, the second respondent was born to them. Due to marital discord between the petitioner and the first respondent, the first respondent left the matrimonial home and took away the minor child. Thereafter, the first respondent filed a petition seeking divorce in F.C.O.P.No.4046 of 2015 before the III Additional Family Court, Chennai and the trial Court has allowed the petition on 30.08.2022 granting decree of divorce and the petitioner was directed to pay a sum of Rs.20,00,000/- towards permanent alimony. In the meantime, the first respondent has also filed a maintenance petition in M.C.No.46 of 2017 before the III Additional Family Court, Chennai, seeking monthly maintenance of Rs.30,000/- to her and Rs.25,000/- to the second respondent. After adjudication, the trial Court has ordered a sum of Rs.25,000/- to the first respondent and a sum of Rs.20,000/- to



the second respondent as monthly maintenance. Aggrieved by the same, the present petition has been filed.

3. The learned counsel appearing for the petitioner submits that the petitioner is earning less than a sum of Rs.20,000/- per month and is unable to pay the monthly maintenance as ordered by the trial Court. In the maintenance case filed by the respondents, though counter affidavit was filed by the petitioner, except that, no opportunity was given to the petitioner by the trial Court to put forth his case and without providing sufficient opportunity, an *ex-parte* order was passed by the trial Court based on the counter affidavit filed by the petitioner and it is clear violation of principles of natural justice. Accordingly, he prays for appropriate orders.

4. The learned counsel appearing for the respondent would submit that deliberately, the petitioner has not appeared before the Court below, even though the trial Court has given sufficient opportunity to the petitioner and the respondents are residing at Chennai and the maintenance amount awarded by the Court below is not sufficient to the respondents to run their life in Chennai. Hence, he prays for dismissal of this petition.



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5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

6. The relationship between the petitioner and the respondents is not in dispute. Due to matrimonial dispute, the petitioner and the first respondent are living separately and the second respondent is living with the first respondent. In such circumstances, a maintenance case was filed by the respondents in M.C.No.46 of 2017 seeking monthly maintenance of Rs.30,000/- to the first respondent and Rs.25,000/- to the second respondent. Even though the counter affidavit was filed by the petitioner in the maintenance case, an opportunity of being heard was not given to the petitioner and without providing sufficient opportunity to the petitioner, the trial Court has ordered the monthly maintenance of Rs.25,000/- to the first respondent and Rs.20,000/- to the second respondent. Hence, on the sole ground, the order dated 18.11.2021 passed in M.C.No.46 of 2017 by the III Additional Family Court, Chennai is set aside and the matter is remanded back to the III Additional Family Court, Chennai for fresh consideration. However, considering the fact that the respondents are residing in Chennai and the cost of living prevailing as on date in Chennai, the



petitioner is directed to pay the monthly maintenance of Rs.15,000/- to the first respondent and Rs.20,000/- to the second respondent on or before 7th of every succeeding English Calender month, till the disposal of the maintenance case and shall deposit the entire arrears amount at the rate of Rs.35,000/- within a period of four weeks from the date of receipt of a copy of this order less than the amount already deposited. On deposit of entire arrears amount being made by the petitioner, the trial Court is directed to restore M.C.No.46 of 2017 on file and decide the matter on merits and in accordance with law, after providing sufficient opportunity to the petitioner and the respondents. Liberty is granted to the respondents to withdraw the entire arrears amount deposited by the petitioner.

7. Accordingly, the Criminal Revision Case is disposed of. Connected miscellaneous petition is closed.

04.06.2024

Index : Yes/No
Internet: Yes/No
Speaking Order : Yes/No
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To

The III Additional Family Court, Chennai.



M.DHANDAPANI,J.

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