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Crl.R.C.No.1674 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1674 of 2023

M.Rajesh @ Sridhar

... Petitioner/Petitioner/
Respondent

Vs.

S.Saranyadevi

... Respondent/Respondent/
Petitioner

Prayer: Criminal Revision Case has been filed under Sections 397 r/w 401 of Cr.P.C, praying to set aside the order dated 07.07.2023 passed in M.P.No.84 of 2023 in M.C.No.368 of 2017 on the file of learned II Additional Principal Family Court, Chennai.

For Petitioner : Mr.D.Saikumaran
For Respondent : Mr.G.RM.Palaniappan

ORDER

This Criminal Revision Case has been filed to set aside the Order dated 07.07.2023 passed in M.P.No.84 of 2023 in M.C.No.368 of 2017 on the file of learned II Additional Principal Family Court, Chennai.



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2. On 22.11.2023, this Court passed the following order;

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“The learned counsel appearing for the respondent seeks time to file counter.

2. The contention of the petitioner is that the respondent/wife filed maintenance case against the petitioner in M.C.No.368 of 2017, in which, the petitioner filed two miscellaneous petitions in M.P.Nos.84 and 85 of 2023. M.P.No.84 of 2023 was filed to reopen and recall the petition filed by the petitioner/husband and M.P.No.85 of 2023 was filed to issue subpoena to the Branch Manager of Indian Bank, Neelankarai Branch and direct him to produce the statement of accounts for the past 5 years pertaining to the savings Bank Account No.863424177, Indian Bank, Neelankarai Branch, Chennai, which stands in the name of the respondent/wife.

3. The learned counsel for the petitioner submitted that the Lower Court order on the face of it ought to be set aside for the reason that the facts narrated therein does not pertain to the petitioner's case except, points for consideration. He further submitted that now the respondent wife employed and earning a salary around Rs.50,000/- to Rs.75,000/-, which is inclusive of



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her incentive, salary and perks, credited to the Neelankarai Branch account from the year 2020 to 2022, the earlier details given in affidavit of Assets of liabilities is only for the year 2017 to 2021. Hence, issuance of subpoena is very much required. He further submitted that the respondent had been taking time to file his counter. On the other hand, the respondent makes allegation that petitioner not proceeding with the case and the Lower Court finds fault with the petitioner that petitioner is the reason for delay in progress of M.C.No.368 of 2017, due to filing of the above revision.

4.The learned counsel for the respondent refuted the same stating that the petitioner questioned the order passed in M.P.No.84 of 2023 and approached this Court by way of revision and the petitioner also filed a petition for restitution of conjugal rights before the lower court in which he has to cross examine the respondent wife, which has nothing to do with the case pending here. But citing this case before the lower Court, the petitioner is taking time.

5.The learned counsel for the petitioner submitted that now the maintenance case in M.C.No.368 of 2017 is posted for



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orders on 05.12.2023. If the orders are pronounced, the petitioner's revision would become infructuous and his endeavour to bring in the salary and earning capacity of the respondent would be defeated.

6.Finding reason in the petitioner's submission, this Court adjourns the matter to 07.12.2023. In the meanwhile, the respondent is directed to file his counter.

7. Till then, status-quo to be maintained by the Lower Court (II Additional Principal Family Court, Chennai) in M.C.No.368 of 2017.”

3.In continuation to the earlier order passed by this Court on 22.11.2023, the learned counsel for the petitioner submitted that the respondent has now been employed in GP Strategy and she has got a substantial earning and her earnings are been credited to her Indian Bank Account at Neelangarai Branch, which she had admitted in OP.No.1179 of 2021. This fact has not been disclosed in her asserts and liability statement in the maintenance case.



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4. Further, the Apex Court in ***Rajnesh Vs. Neha & Anr.*** [AIR 2021 SC 569]

case has observed that multiple proceedings seeking maintenance is permissible under Section 125 Cr.P.C but the only condition is that the Court which passes the order in the maintenance petition should have a correlative consideration in ordering the maintenance amount, considering whether any maintenance amount is paid in other proceedings. For this purpose, the petitioner seeks to reopen and recall the petition filed by the petitioner/husband and to issue subpoena to the Branch Manager of Indian Bank, Neelankari Branch and direct him to produce the statement of account for the past 5 years pertaining to the savings Bank Account No.863424177, Indian Bank, Neelankarai Branch, Chennai - 41, which stands in the name of the respondent/wife.

5. The learned counsel for the respondent on the other hand would submit that the petitioner had not put forth any question when the respondent was cross-



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examined and referring to the impugned order at paragraph no.8, he submitted that the respondent was cross-examined on 19.12.2022 and the case was posted for arguments on 03.02.2023. From 03.01.2023, the matter stood reposted to 10.01.2023 and 21.01.2023 for arguments. Thereafter, on 21.01.2023, this petitioner has filed the present petition to reopen and recall the petition filed by the petitioner and to issue subpoena to the Branch Manager of Indian Bank, Neelankarai Branch to produce the statement of accounts of the savings bank account maintained by the respondent at the said branch, which were numbered as MP.Nos.84 and 85 of 2023. This would clearly show that the petitioner has filed this petition only to protract the proceedings and not as submitted before the Court.

6.The learned counsel for the respondent further contended that the petitioner has been filing such petitions only to protract the proceedings. This case is of the year 2017 and for the past 4 to 5 years, the case has been kept pending



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and is unable to attend its finality due to the attitude of the petitioner. He further added that the maintenance case was filed in the year 2017 and the employment of the respondent was much later. The only apprehension of the respondent's counsel is that by citing this petition or filing any other petition, the petitioner should not protract the proceedings and stall the progress of MC.No.368 of 2017. Further, he fairly submitted that he would produce the Bank Statement of the Indian Bank Account operated by the respondent from the year 2021 to till date and also any document with regard to her employment and salary.

7.This Court now directs the respondent to submit the statement of accounts pertaining to the saving bank A/c.No.863424177, Indian Bank, Neelangarai Branch, Chennai – 41 from the year 2021 to till date and any other document to show the employment of the respondent on the next date of hearing or within a short period thereof, before the II Additional Principal Family Court,



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Chennai, with an advance copy served to the petitioner.

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8.The learned counsel for the petitioner would now submit that after the submission of the said document by the respondent before the Court below and taken in evidence, he will advance his arguments within a period of two (2) weeks thereof and will not be a reason for any delay.

9.The II Additional Principal Family Court, Chennai is required to conclude the trial in MC.No.368 of 2017 within a period of 30 days from the date of completion of arguments by both the counsel.

10.The Criminal Revision Case is disposed of accordingly. No costs.

22.02.2024

Index : Yes/No

Internet : Yes/No

Speaking order/Non-speaking order

Tsg



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To

1.II Additional Principal Family Court,
Chennai.

2.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

Tsg

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