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*Crl.M.P.No.2593 of 2024
in Crl.RC.SR.No.50380 of 2023*

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2024

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

Crl.M.P.No.2593 of 2024
in
Crl.RC.SR.No.50380 of 2023

M.Kuppusamy

... Petitioner

Vs.

1.D.Sasirekha

2.K.Lohit Krishna

Minor represented by mother
and natural guardian Mrs.Sasirekha

... Respondents

PRAYER: Criminal Miscellaneous Petition has been filed under Section 5 of Limitation Act to condone the delay of 116 days in filing the present revision petition against the order dated 04.01.2023 made in M.C.No.292 of 2016 on the file of the VII Additional Family Court at Chennai.

For Petitioner : Mr.N.Raja
for Ms.A.Manju Matha

For Respondents : Ms.K.Leelavathy



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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner to condone the delay of 116 days in filing the present revision petition against the order dated 04.01.2023 made in M.C.No.292 of 2016 on the file of the VII Additional Family Court at Chennai.

2.The contention of the learned counsel for the petitioner is that the marriage between the petitioner and first respondent was solemnized on 28.11.2004 at Vaniyambadi. Out of their wedlock, they were blessed with a male child Lohit Krishna/second respondent on 15.08.2006. He would submit that the impugned order is arbitrary, discriminatory and against the evidence available in the case. The Family Court failed to note that the first respondent herself admitted that she is working in a Private firm but had not disclosed the salary certificate to prove her bonafide and now she is claiming that she is living in penury. When the first respondent was able to maintain herself and the child for the past ten years i.e., from the date of separation and filing maintenance petition belatedly has to be considered.



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He further submitted that the first respondent lived with the petitioner only for few months and she voluntarily deserted the matrimonial life and in view of the same, she is not entitled for any maintenance under Section 125(4) Cr.P.C. He would further submit that the petitioner is employed in a private firm in Hosur and he has to maintain his parents with meagre income and also to meet other commitments. He further submitted that the maintenance amount imposed by the Trial Court does not commensurate to the petitioner's income.

3.On the other hand, the learned counsel for the respondents submitted that the first respondent filed a maintenance case on 18.07.2016, the petitioner has not co-operated with the maintenance case and has been dragging on the proceedings and finally, the Family Court passed an order on 04.01.2023. Before the Family Court, the first respondent examined herself as P.W.1 and marked Ex.P1 to Ex.P3 and the petitioner neither examined himself nor produced any document to disprove the case of the respondents. She would submit that considering the respondents' claim and following the direction of the Apex Court in the case of ***Rajnesh vs. Neha***



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and another reported in **[2021] 2 SCC 324**, the Trial Court directed the petitioner to pay a sum of Rs.15,000/- to the first respondent and Rs.10,000/- for the minor son/second respondent. The first respondent with the support of her parents and with great difficulty, sustaining herself and also taking care of her son's education who is studying Class XII. She further submitted that after separation, the petitioner never visited the second respondent to shower any love nor paid any amount as maintenance. The petitioner is employed as Sales Executive in Hyundai Showroom at Hosur, earning around Rs.50,000/- per month, he is the only son to his parents and owns a house at Vaniyambadi. Further, during the marriage 30 sovereigns of jewels and a two wheeler was received by the petitioner and he is still retaining the same. She further submitted that the petitioner received the order copy on 06.03.2023 and thereafter, he filed the present revision petition only on 29.09.2023 with a delay of nearly six months but no proper reason was given for the delay except for blaming his counsel. Further, for the claim of sickness of his counsel, no documents produced. Hence, she strongly opposed this petition.



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4.Finding that the petitioner and the first respondent were living separately for more than 10 years, the respondent had not paid any amount as maintenance even for the minor and he had not taken any steps to visit the minor and show some love towards him. Further, the reasons given for condonation of delay is not acceptable. In view of the same, this Court is not inclined to entertain this petition.

5.Accordingly, the Criminal Miscellaneous Petition stands dismissed.
Consequently, Crl.RC.SR.No.50380 of 2024 is also dismissed

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Index:Yes/No
Speaking Order/Non-Speaking Order

cse

To

The Principal Judge,
VII Additional Family Court,
Chennai.



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