



Crl.R.C.No.539 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.R.C.No.539 of 2023
And
Crl.M.P.No.4066 of 2023**

Kumar

... Petitioner

Vs.

1.Akila
2.Minor.Roopanya
3.Minor.Gurumoorthy

Respondents 2 and 3 are represented
by their Mother and first respondent

... Respondents

Prayer:

Criminal Revision Case filed under Section 397 and 401 of Criminal Procedure Code, seeking to call for the records pertaining to order passed in M.C.No.20 of 2015 on 01.03.2019 on the file of Judicial Magistrate – II, Thiruvanamalai and set aside the same and dismiss the petition in M.C.No.20 of 2015.

For Petitioner : M/s.M.Sridhar
For Respondents : Mr.B.Jawahar

O R D E R

The criminal revision case has been filed seeking to set aside the



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order dated 01.03.2019 passed in M.C.No.20 of 2015 by the learned Judicial Magistrate – II, Thiruvanamalai.

2.The case of the petitioner is that the petitioner is the husband and the first respondent is the wife and the respondents 2 and 3 are their children. The marriage between the petitioner and the first respondent was solemnized on 02.02.1999. There was a matrimonial dispute between them and the respondents filed maintenance case under Section 125 of Cr.P.C. in M.C.No.20 of 2015 before the learned Judicial Magistrate – II, Thiruvanamalai claiming a sum of Rs.35,000/- as monthly maintenance. The Court below passed an exparte order directing the petitioner to pay a sum of Rs.9,000/- as monthly maintenance from the date of filing of the petition. Challenging the same, the present revision has been filed.

3.The learned counsel for the petitioner submitted that at the time of filing the maintenance case, the respondents 2 and 3 were minors and now they had attained the age of majority. The learned counsel further submitted that the respondents filed maintenance case as against the petitioner as if the petitioner refused to take care of the respondents and the Court below passed an exparte order without



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hearing the petitioner. The learned counsel further submitted that after obtaining the exparte order, the first respondent filed Cr.M.P.33 of 2020 in M.C.No.20 of 2015 under Section 128 of Cr.P.C. seeking to attach the salary of the petitioner and the petitioner's salary was attached and every month the maintenance amount is being deducted.

4.The learned counsel for the petitioner submitted that, this Court may without interfering with the attachment order, set aside the impugned order and issue direction to the Court below to adjudicate the matter afresh and to pass orders after giving opportunity to the petitioner as well as the respondents. The learned counsel further submitted that the petitioner filed H.M.O.P.No.78 of 2020 before the Family Court, Thiruvannamalai seeking restitution of conjugal rights and the same was allowed on 07.04.2021, however, this Court may permit the petitioner to canvass all the points before the Court below.

5.The learned counsel appearing for the respondents raise no serious objection.

6.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents.



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7.The facts of the case and the relationship between the parties is not disputed. In view of the consent view expressed by the learned counsel appearing on either side, this Court, without interfering with the attachment order, set aside the order dated 01.03.2019 passed in M.C.No.20 of 2015 by the learned Judicial Magistrate – II, Thiruvanamalai. This Court directs the Court below to restore the maintenance case in M.C.No.20 of 2015 on its file and to hear the petitioner and the respondents and dispose of the same, as expeditiously as possible. This Court permits the petitioner to canvass all the points before the Court below.

8.This revision is allowed on the above terms. Consequently, the connected miscellaneous petition is also closed.

04.04.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Judicial Magistrate – II,
Thiruvanamalai.

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