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Crl.R.C.No.2169 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

Crl.R.C.No.2169 of 2023

and

Crl.M.P.No.19608 of 2023

Dhatchanamoorthy

... Petitioner

Vs.

1.Rajeshwari

2.Monisha

Minor aged about 7 years

Rep. by the 1st respondent/mother & Guardian

... Respondents

PRAYER: Criminal Revision filed under Section 397 r/w 401 of Cr.P.C., to set aside the impugned order in M.P.No.844 of 2022 in M.C.No.325 of 2018 dated 14.07.2023 passed by the learned III Additional Family Court Judge (V Additional Family Court Judge (FAC)), Chennai as far as its condition that the petitioner is directed to pay Rs.5,10,000/- (Rupees Five Lakhs and Ten Thousand only) towards arrears of maintenance from 22.03.2019 to till date of order.

For Petitioner : Mr.A.Venkatesan – No appearance

For Respondents : Ms.M.Kalyani – No appearance



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ORDER

This Criminal Revision has been filed to set aside the impugned order in M.P.No.844 of 2022 in M.C.No.325 of 2018 dated 14.07.2023 passed by the learned III Additional Family Court Judge (V Additional Family Court Judge (FAC)), Chennai as far as its condition that the petitioner is directed to pay Rs.5,10,000/- (Rupees Five Lakhs and Ten Thousand only) towards arrears of maintenance from 22.03.2019 to till date of order.

2.This Court, by order dated 19.12.2023, passed the following order:

"The petitioner who is the respondent in M.C.No.325 of 2018, is the estranged husband of the first respondent and father of the second respondent.

2.The respondents herein filed a maintenance case in M.C.No.325 of 2018 before the V Additional Family Court, Chennai and obtained an ex parte order on 22.03.2019 which the petitioner was not aware about. The respondent lodged a complaint with Anaicut Police Station during May 2022 for harassment and at that



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time only the petitioner came to know about the maintenance case earlier filed and disposed of in the year 2019. Thereafter, the petitioner with a delay of 1169 days filed a petition on 21.05.2022 to set aside the exparte order. The petitioner was not served with any notice or summons and he was not made known of the pendency of the maintenance case. The petitioner was suffering from Hepatitis-B ailment, for which he had taken treatment by getting admitted in a private Nursing Home. The respondents filed a maintenance petition seeking maintenance of Rs.50,000/- per month. According to the petitioner, he has to pay Rs.10,20,000/- as arrears of maintenance. The petitioner filed a petition in M.P.No.844 of 2022 before the Lower Court seeking condonation of delay invoking Section 5 of the Limitation Act to set aside the exparte order passed in M.C.No.325 of 2018 dated 22.03.2019. The Lower Court by order dated 14.07.2023 allowed the condone delay petition on condition that the petitioner shall pay Rs.5,10,000/- which is 50% of the arrears of maintenance from 22.03.2019 within one month, failing which the petitioner shall stand dismissed. Against which the present revision petition filed.

3.The learned counsel for the petitioner submitted that the petitioner is only an Auto Driver by profession earning meager income having hand to mouth existence and imposing such huge



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maintenance amount as condition would affect his right. He would submit that the petitioner has been denied justice. He would further submit that now the petitioner has come forward to deposit 50% of Rs.5,10,000/- i.e. Rs.2,60,000/-.

4.Accordingly, the petitioner is directed to deposit a sum of Rs.2,60,000/- [Rupees Two Lakhs Sixty Thousand only] to the credit of M.C.No.325 of 2018 before the V Additional Family Court, Chennai within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the respondents/petitioners in M.C.No.325 of 2018 are at liberty withdraw the said amount and the Lower Court can dispense with notice to the petitioner/respondent in M.C.No.325 of 2018.

5.Notice to the respondents returnable by 23.01.2024. Private notice is also permitted.

6.Post the matter on 23.01.2024.”

3.In continuation and conjunction to the earlier order passed on 19.12.2023, the case has been periodically listed. Earlier on 05.08.2024, 12.08.2024 and 22.08.2024, when the case was taken up for hearing, there was no representation for the petitioner. Hence, in order to give one more



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opportunity to the petitioner to argue the case, the matter was directed to be listed under the caption 'For Dismissal' on 27.08.2024.

4. Even today, when the matter is called, there is no representation for the petitioner as well as respondents either in person or through counsel. In view of the same, this Court dismisses the above revision petition on merits, in view of the observation made on 19.12.2023.

5. Accordingly, the Criminal Revision Case is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

27.08.2024

Index : Yes/No

Internet : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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M.NIRMAL KUMAR, J.

rsi

To

1.The III Additional Family Court Judge
(V Additional Family Court Judge (FAC)),
Chennai.

2.The Public Prosecutor,
High Court, Madras.

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and

Crl.M.P.No.19608 of 2023

27.08.2024