



Crl.RC.No.2265 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

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&

Crl.MP No.20219 of 2023

Balasubramanian

Petitioner

Vs

Sujatha

Respondent

Prayer:- This Criminal Revision Case has been filed, under Section 397 r/w.401 Cr.PC, challenging the order dated 04.12.2023 passed in Crl.MP No.1035 of 2023 in MC No.12 of 2019 on the file of the learned Judicial Magistrate, Thittakudi.

For Petitioner : Mr.R.Ezhilarasan
For Respondent : Mr.Ashly for
Mr.L.C.Prabakaran

ORDER

This Criminal Revision Case is filed against the order dated 04.12.2023 passed in Crl.MP No.1035 of 2023 in MC No.12 of 2019 on the file of the learned Judicial Magistrate, Thittakudi.



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2. The petitioner is the respondent in MC No.12 of 2019 filed by his estranged wife, who is the respondent herein for maintenance. In the said MC.No.12 of 2019, the petitioner was set ex-parte and an ex-parte order was passed against him directing him to pay a sum of Rs.10,000/- for monthly expenses, Rs.5000/- for residential expenses and another sum of Rs.5000/- for medical expenses, in total a sum of Rs.20000/- was ordered as monthly maintenance to be paid on or before 5th every month. Further, for dresses and the other expenses a sum of Rs.20,000/- to be paid annually and also cost of Rs.5000/- for filing the case. These amounts to be paid from 30.09.2019 onwards.

3. According to the petitioner, in the year 2018, he had settled down in Canada and also obtained Canada citizenship. He is now presently living in Canada. When he came to India to attend a family function, he came to know about the pendency of the case. Thereafter, he has taken steps and filed a petition under Section 122 Cr.PC and get ex-parte order set aside and to modify the same, he filed Crl MP No.1035 of 2023. The trial Court vide order dated 04.12.2023, after considering the petitioner's submissions and on the records produced, had passed a conditional order that the



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petitioner should deposit a sum of Rs.1,80,000/- on or before 04.01.2024 and on making such deposit, ex-parte order would get set aside. Against which, he has filed the present revision.

4.The learned counsel for the respondent submitted that the petitioner is making false allegation as he was not aware of the proceedings but he was very much aware about the proceedings. In fact, the petitioner has earlier filed a divorce petition before the Family Court, seeking divorce, which was dismissed for non-prosecution. The petitioner after fleeing to Canada, had totally neglected the respondent and not paying the alimony. Both the petitioner and the respondent have arrived at mutually on various issues and as such, the respondent agreed that in the event the petitioner depositing an amount of Rs.1,80,000/- as ordered by the Family Court, the respondent has got no objection for setting aside the ex-parte order and the respondent shall proceed with the proceedings in MC.No.12 of 2019 without any delay.

5.The learned counsel for the petitioner has submitted that at the stage of admission, he had already deposited a sum of Rs.50,000/- to the credit of



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MC.No.12 of 2019 as per the order of this Court dated 29.12.2023 and now he is ready to deposit the balance amount of Rs.1,30,000/- within a period of two weeks. Further, he has no objection for respondent to withdraw the said amount but subject to the out come of the orders in MC No.12 of 2019 and this amount to be given credit while deciding and passing orders in MC No.12 of 2019.

6. The learned counsel for the respondent has got no objection for such terms and conditions.

7. In view of the above, the petitioner is directed to deposit an amount of Rs.1,30,000/- before the trial Court in MC No.12 of 2019 within a period of two weeks from the date of receipt of a copy of this order. After such deposit, the respondent shall file appropriate petition to receive the amount of Rs.1,80,000/-, deposited in the credit of MC No.12 of 2019 without notice to the petitioner. The ex-parte order in MC No.12 of 2019 is set aside with the above condition. Therefore, the trial Court shall proceed with MC No.12 of 2019, permitting both the parties to let in evidence, complete the proceedings at the earliest, preferably within a period of three



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months. For any reason, if the proceedings could not be completed within three months i.e., on or before 30.06.2024, the petitioner shall make the payment of monthly maintenance amount of Rs.15,000/- to the respondent till the completion of the proceedings.

8. With the above direction, this Criminal Revision Case is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Web: Yes/No

Speaking/Non Speaking

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To

1. The learned Judicial Magistrate, Thittakudi.



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M.NIRMAL KUMAR., J.

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