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Crl.R.C.Nos.1497, 1498 & 1499 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

Crl.R.C.Nos.1497, 1498 & 1499 of 2018

Karnan

... Petitioner in all Crl.R.Cs

Vs.

1. Sumathi

2. Minor.Kavin Prabhu

3. Minor Sarvatha

... Respondents in all Crl.R.Cs

(Minor respondents 2 and 3 are  
represented by their next friend  
mother Sumathi (1st Respondent))

Common Prayer: Criminal Revision Case filed under Section 397 r/w. 401 of Criminal Procedure Code, to set aside the order, dated 11.08.2018 passed in Crl.M.P.Nos.623, 624 and 625 /2018 in M.C.No.17/2013 on the file of the Judicial Magistrate No.1, Attur.

For Petitioner : Mr.B.Santhana Gopala Krishnan for  
Mr.R.Nalliyappan

For Respondent : Mr.E.Kannadasan

**COMMON ORDER**

Challenge in these Revision cases are made to the orders passed in C.M.P.623, 624 and 625 /2018 in M.C.No.17/2013 on the file of the Judicial Magistrate No.1, Attur.

2. The Respondents herein filed a Maintenance case in



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M.C.No.17/2013 before the Judicial Magistrate I, Athur seeking maintenance from her husband Karnan, the Revision petitioner herein. The said maintenance case in M.C.No.17/2013 was allowed by the Judicial Magistrate I, Athur vide his orders dated 13.05.2014, directing the present Revision Petitioner to pay a sum of Rs.3,000/- p.m to his wife and Rs.1,500/- p.m. to each of his minor children / respondents 2 and 3. Since the amount was not paid by the present Revision Petitioner, the wife and the minor children filed C.M.P.623, 624, 625/2018 under Section 125 (3) Cr.P.C., praying to direct the husband / revision petitioner to pay the maintenance amount for the following periods:

| <b>S.No.</b> | <b>case no.</b> | <b>Period</b>            | <b>Amount Rs.</b> |
|--------------|-----------------|--------------------------|-------------------|
| 1            | C.M.P.623/2018  | 12.07.2014 to 11.07.2016 | 72000             |
| 2            | C.M.P.624/2018  | 12.07.2015 to 11.07.2015 | 72000             |
| 3            | C.M.P.625/2018  | 12.07.2015 to 11.07.2016 | 72000             |

3. The present Revision Petitioner remained absent in all the above applications and was therefore set exparte. The learned Judicial Magistrate after analysing the petitions filed by the wife and her two minor children, allowed them, by sentencing the revision petitioner to undergo Simple Imprisonment for a period of 11 months for not paying



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the maintenance amount to his wife and children. Aggrieved over the same, the present Criminal Revision Cases are filed.

4. Mr.B.Santhana Gopala Krishnan, learned counsel for the petitioner contended that the Revision Petitioner had so far paid a sum of Rs.12,000/- and a balance amount of Rs.60,000/-is due and liable to be paid by him. His further contention is that the Revision petitioner is ready to pay the balance amount to his wife and children.

5. Per contra, Mr.E.Kannadasan, learned counsel appearing for the respondents contended that the revision petitioner has not paid any amount towards maintenance to the respondents and that there is a balance of Rs.1,80,000/- to be paid by the Revision Petitioner. He therefore, prayed for dismissal of the present Criminal Revision Cases.

6. It is seen from the records that the Revision Petitioner did not challenge the orders passed in M.C.No.17/2013 by the Judicial



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Magistrate I, Athur. However, he failed to pay the maintenance amount to his wife and children as directed by the Judicial Magistrate I, Athur in M.C.No.17/2013. Therefore, the Revision Petitioner's wife and children were forced to file C.M.P.623, 624 and 625 /2018 in M.C.No.17/2013 under Section 125(3) of Cr.P.C., for non payment of maintenance amount.

7. The Revision Petitioner did not even appear before the trial Court in all these applications and was set exparte. The learned trial Judge in his orders relied upon the decision of this Court in ***Muthuvel Vrs.Nalini*** in ***Crl.R.C.(MD) No.123 of 2012 and Crl.R.C.(MD) No.124 of 2012***, and held that though the Revision Petitioner had sufficient income to pay the maintenance amount, he did not pay the amount to his wife and children and therefore he is liable to be punished under Section 125(3) Cr.P.C.,

8. It is pertinent to point out that the liability to pay maintenance under Section 125(3) Cr.P.C., is in the nature of continuing



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liability and in the instant case, the respondents herein had filed the applications under Section 125 (3) Cr.P.C., highlighting the subsequent defaults made by the present Revision Petitioner in payment of maintenance amount. All the observations made by the trial Court in the above C.M.P.623, 624 and 625/2018, are perfectly in order and I do not see any reason to interfere with the same.

9. In the result, the Criminal Revision Cases are dismissed as devoid of merits.

**03.04.2024**

Index: Yes/No  
Speaking/Non-Speaking order  
vum

To

The Judicial Magistrate No.1, Attur

**R. HEMALATHA, J.**

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