



CrI.O.P.(MD) No.3801 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.3801 of 2024

S.Ananthi

...Petitioner

VS

M.Subramanian

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to direct the learned II Additional District Court, Thoothukudi to expedite and conclude the proceedings of the present case CrI.R.C.No.12 of 2023 in Cr.M.P.No.5791 of 2023 in M.C.No.2 of 2022 within a stipulated time period as prescribed by this Court.

For Petitioner : Mr.S.Saravanan

ORDER

The learned Counsel for the Petitioner submits that the Petitioner had filed this Petition seeking direction to the learned II Additional District Judge, Thoothukudi to dispose of the case in CrI.R.C.No.12 of 2023. It is

1/5



CrI.O.P.(MD) No.3801 of 2024

the contention of the learned Counsel for the Petitioner that the Petitioner is the wife of the Respondent. She filed M.C.No.2 of 2022 seeking maintenance. The said petition was ordered. Subsequently, she filed a petition for recovery of the maintenance amount, in which the husband filed Cr.M.P.No.5791 of 2023 seeking to condone the delay in filing a petition to set aside the order passed in M.C.No.2 of 2022. Cr.M.P.No.5791 of 2023 filed by the husband was allowed by the learned Judicial Magistrate, No.II, Kovilpatti on condition to deposit half of the amount before the learned Judicial Magistrate No.II, Kovilpatti. Aggrieved by the same, the husband had preferred CrI.R.C.No.12 of 2023 against the order passed by the learned Judicial Magistrate No.II, Kovilpatti, in Cr.M.P.No.5791 of 2023.

2.It is his further submission that in CrI.R.C.No.12 of 2023, the Petitioner/husband had not proceeded with the arguments. Therefore, the learned II Additional District Judge, Thoothukudi, is unable to dispose of CrI.R.C.No.12 of 2023. Only if CrI.R.C.No.12 of 2023 is disposed of, the Petitioner will get her arrears of maintenance, as per the order passed by the learned Judicial Magistrate, No.II, Kovilpatti in Cr.M.P.No.5791 of 2023 in M.C.No.2 of 2022.



CrI.O.P.(MD) No.3801 of 2024

WEB COPY

3.It is to be noted that CrI.R.C.No.12 of 2023 arises out of the order for maintenance filed by the wife, which was already granted. Against the grant of maintenance order, the husband had filed Cr.M.P.No.5791 of 2023 seeking to condone the delay in filing the petition to set aside the order of maintenance. The petition to condone the delay was allowed on condition that half of the arrears of maintenance amount has to be deposited before the Court. The husband as Petitioner in Cr.M.P.No.5791 of 2023 had not paid and had filed CrI.R.C.No.12 of 2023 , thereby delaying the payment.

4.The learned II Additional District Judge, Thoothukudi is within his/her powers to pass appropriate orders for non prosecution by the Petitioner/husband and also direct the learned Judicial Magistrate for further orders in the light of the maintenance order passed by the Court. Instead, the learned II Additional District Judge, Thoothukudi is keeping the petition pending, thereby helping the Respondent in the maintenance case to delay the payment of maintenance.



CrI.O.P.(MD) No.3801 of 2024

5.As per the remarks offered by the learned II Additional District and Sessions Judge, Thoothukudi in his letter in D.No...../SC/2024 dated 18.03.2024, CrI.R.C.No.12 of 2023 is pending for maintainability and it is posted to 19.03.2024.

6.The learned Judicial Magistrate No.II, Kovilpatti, is directed to pass appropriate orders for collection of arrears of maintenance amount, if any petition is filed on behalf of the wife/the Petitioner in M.C.No.2 of 2022 within a period of one month from the date of receipt of a copy of this order, as there is no stay ordered by the learned II Additional District Judge, Thoothukudi in CrI.R.C.No.12 of 2023.

With the above directions, this Criminal Original Petition is disposed of.

Internet:Yes./No
Index:Yes/No
mm

19.03.2024

To

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

4/5



WEB COPY



Crl.O.P.(MD) No.3801 of 2024

SATHI KUMAR SUKUMARA KURUP, J.

mm

CRL.O.P (MD) No.3801 of 2024

19.03.2024