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CRL R.C NO. 628 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21-01-2025**

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THE HONOURABLE MR.JUSTICE SHAMIM AHMED

CRL R.C NO. 628 of 2022

AND

CRL MP NO. 6523 of 2022

Maharajan

Petitioner(s)

Vs

Sivamalai

Respondent(s)

Prayer:

Criminal revision Petition filed under Section 397 r/w 401 Cr.P.C. To set aside the decree and order dated 22.03.2022 passed by the Family Court Judge, Ariyalur, allowing the Maintenance petition in FC.MC.No.3 of 2019 filed by the respondent under Section 125 of the Cr.P.C as not maintainable.

For petitioner : Mr.Praveen Alexander
For respondent : Mrs.Pushpalatha

ORDER

This criminal revision petition is filed to set aside the decree and order dated 22.03.2022 passed by the Family Court Judge, Ariyalur, allowing the Maintenance petition in FC.MC.No.3 of 2019 filed by the respondent under Section 125 of the Cr.P.C as not maintainable.



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2. The learned counsel for the petitioner submits that the petitioner is aged 78 years and is supporting his widowed daughter and grandchildren and further, the said maintenance case is not maintainable since a step mother cannot claim maintenance against the step son. Hence, he filed this present petition.

3. This Court, thereafter, passed the interim order dated 15.07.2022 which is reproduced here below:-

“Learned counsel relying upon the judgment of the Hon'ble Supreme Court in the Kirtikant D.Vadodaria vs State of Gujarat and anr would submit that the step-mother will not come within the definition of the mother, if she has a natural born heir to her.

2 *In this case, there is a natural born daughter to her and therefore, he would submit that she is not entitled to claim the maintenance. It is true that in paragraph 11 and 12 of the said judgement of the Hon'ble Supreme Court has considered the meaning of the mother and the step-mother and has concluded that the step-mother will not normally be coming within the meaning of the mother. But however, in paragraph 15 of the judgement of the Hon'ble Supreme Court, held that Section 125 of the Code of Criminal Procedure is a Social Welfare Legislation and therefore, the whole issue has to be considered with that object. Learned counsel relying on the paragraph 16 of the said judgement would submit that in that case also they have refused the maintenance since the claimant has natural born children. In this case, there is a natural born daughter and according to the petitioner she also has received a property but, as per the judgement of the Trial Court, she had only received a meager portion of the property.*

3. *In that view of the matter, to balance the interests of both sides, interim stay is granted on a condition that the petitioner shall pay the 50% of the award amount which*



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would be subject to the ultimate result to the main revision.

4. *Post on 05.09.2022."*

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4. The learned counsel for the respondent filed an affidavit on 17.01.2025 and submitted that the order dated 15.07.2022 was not been complied with by the petitioner and only a sum of Rs.62,400/- was paid to the respondent whereas, as per the affidavit dated 17.01.2025, entire arrears amount of Rs.2,82,600/- has to be paid by the petitioner. She further submitted that the petitioner has not complied with the order of this Court dated 15.07.2022 and the petitioner is not interested to pay the amount as awarded by the trial Court dated 22.03.2022 and by this Court *vide* order dated 15.07.2022. Thus, she prays that the present petition is liable to be dismissed and the interim order granted by this Court may also be vacated.

5. The learned counsel for the petitioner has also filed an affidavit before this Court and submits that the petitioner had paid only Rs.62,400/- to the respondent. He further submitted that the petitioner is aged 78 years and his income is also very less and further he did not dispute the fact that the entire arrears amount of Rs.2,82,000/- was not paid in compliance of the order dated 15.07.2022 and was also not intend to pay the remaining arrears to the respondents as he has no means to pay the



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same.

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5. After considering both side arguments and perusing the materials available on record and the order dated 15.07.2022 passed by this Court, the revision petitioner has not complied with the orders of this Court dated 15.07.2022 as well as the order passed by the trial Court dated 22.03.2022 and paid only an amount of Rs.62,400/- wherein as per the calculation chart annexed by the respondent the entire arrears due is Rs.2,82,600/-.

6. Thus, the petitioner has not complied with the interim order passed by this Court *vide* order dated 15.07.2022 and is also not inclined to pay the remaining arrears to the respondents and hence, he is not entitled for any relief as prayed for. Thus, this criminal revision petition is dismissed. Further, the trial Court is directed to recover the entire arrears amount from the revision petitioner in accordance with law within a period of four months from today.



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SHAMIM AHMED,J.

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7. Accordingly, in view of the above observation and direction, this criminal revision petition is dismissed and the interim order is vacated. Connected miscellaneous petition is closed. No order as to costs.

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vca

Internet : *Yes/No*

Citation : *Yes/No*

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