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Crl.R.C.No.1278 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No. 1278 of 2024

S.Rajaseelan @ Harishkumar

... Petitioner

..VS..

1. R.Malathi
2. R.Priyadharshini
3. The Accounts Officer,
Chennai Port Trust,
Rajaji Salai, Chennai – 600 001.

... Respondents

Criminal Revision Case filed under Sections 397 read with 401 Cr.P.C., to call for records of the order dated 27.12.2023 passed by the learned Judicial Magistrate, Ambattur in Criminal Miscellaneous Petition bearing Crl.M.P.No.2683 of 2022 in M.C.No.22 of 2016 and set aside the same.

For Petitioner : Mr.S.Rajesh Kumar
for M/s.Nathan and Associates

For Respondents : No appearance



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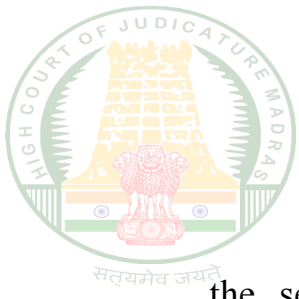
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ORDER

This Criminal Revision Petition is preferred against the order dated 27.12.2023 passed by the learned Judicial Magistrate, Ambattur in Crl.M.P.No.2683 of 2022 in M.C.No.22 of 2016.

2. The petitioner is the husband, the first respondent is the wife and second respondent is their daughter. The marriage between the petitioner and the first respondent was solemnized on 05.06.2002 and out of their wedlock the second respondent was born on 07.03.2004. Due to difference of opinion between the petitioner and the first respondent they got separated.

3. The petitioner-husband filed a divorce petition in H.M.O.P.No.1863 of 2006 before the Additional Family Court, Chennai. Subsequently, the first respondent - wife filed a maintenance case in M.C.No.272 of 2005 before the Family Court, Chennai. The learned Judge, *vide* order dated 07.06.2013 directed the petitioner - husband to pay a sum of Rs.10,000/- to the first respondent-wife and Rs.6,000/- to



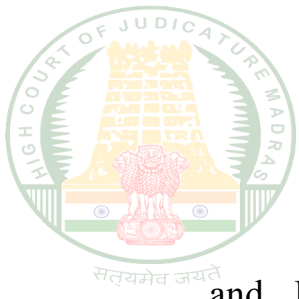
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the second respondent-daughter and as against the said order, the petitioner – husband filed revision before this Court in Crl.R.C.No.991 of 2013.

4. While that being so, the petitioner-husband preferred an appeal in C.M.A.No.2738 of 2012 before this Court as against the order passed in H.M.O.P.No.1863 of 2006 by the Family Court, Chennai, dismissing the divorce petition. Subsequently, the above said appeal and revision petition were referred to Mega Lok Adalat, where both the cases were dismissed, after the first respondent-wife had expressed her willingness to live with the petitioner-husband and both were lived together for a while.

5. Thereafter, the first respondent-wife deserted the petitioner-husband and filed a maintenance case before the Judicial Magistrate, Ambattur in M.C.No.22 of 2016 and also filed a miscellaneous petition invoking Section 125(1) Cr.P.C., in Crl.M.P.No.9158 of 2016 seeking interim maintenance for a sum of Rs.20,000/- to the first respondent-wife



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and Rs.15,000/- to the second respondent-daughter. The learned Magistrate, *vide* order dated 29.12.2016, directed the petitioner-husband to pay a sum of Rs.10,000/- to the first respondent-wife and Rs.6,000/- to the second respondent-daughter per month as interim maintenance. Subsequently, after enquiry, the learned Magistrate *vide* order dated 03.08.2017 in M.C.No.22 of 2016, had directed the petitioner-husband to pay a sum of Rs.15,000/- to the first respondent-wife and Rs.5,000/- to the second respondent – daughter as monthly maintenance and also directed the petitioner – husband to pay school fees for the second respondent – daughter every academic year. While that being so, the respondents herein filed a miscellaneous petition in C.M.P.No.2683 of 2022 in M.C.No.22 of 2016 invoking Section 128 Cr.P.C., seeking a direction to the third respondent herein – Accounts Officer, Chennai Port Trust, to deduct a sum of Rs.25,000/- from the monthly salary of the petitioner and to deposit the same in the first respondent-wife's Savings Bank Account, on or before 10th of every month. The learned Magistrate, after appreciating the entire materials and after enquiry, found that as the petitioner-husband has failed to pay the arrears amount of Rs.9,04,000/-

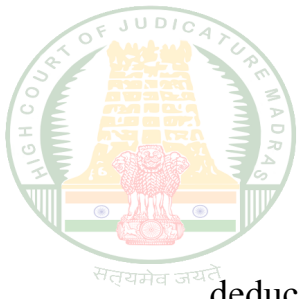


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for the period from 14.09.2016 to 30.02.2022, allowed the said petition and directed the third respondent herein- garnishee to deduct a sum of Rs.25,000/- every month from the monthly salary of the petitioner-husband and also directed to deposit the same in the first respondent's Savings Bank Account in Canara Bank, Ambattur on or before 10th of every month. Aggrieved by the same, the present Criminal Revision Petition has been filed by the petitioner-husband.

6. Learned counsel for the petitioner submitted that originally in M.C.No.22 of 2016, the petitioner – husband was directed to pay a sum of Rs.15,000/- to the first respondent-wife and Rs.5,000/- to the second respondent – daughter as monthly maintenance and also directed to pay school fees for the second respondent every academic year. In compliance of the said order, the petitioner – husband has been paying the above maintenance amount without any default till date. There was no arrears amount has to be paid to the respondents and also educational expenses were already paid by the petitioner, the learned Magistrate, failed to consider all those facts, committed a grave error in ordering to



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deduct a sum of Rs.25,000/- from the salary of the petitioner and to deposit the same into the account of the first respondent-wife. He further submitted that after the reunion of the petitioner and the first respondent, she voluntarily deserted the petitioner without any valid reason and living separately for a long time, moreover first respondent-wife has been earning enough to maintain herself and the second respondent-daughter. Therefore, first respondent will not be entitled to receive any maintenance amount from the petitioner as per Section 125(4) Cr.P.C. He further submitted that the petitioner has already been paying the maintenance amount regularly as per order dated 03.08.2017 and also he has to take care of his age old parents and now the petitioner is struggling to meet the ends for his daily expenditures. While that being so, directing the third respondent – garnishee to deduct a sum of Rs.25,000/- from the salary of the petitioner, warrants interference of this Court.

7. Heard the learned counsel for the petitioner and perused the materials available on records.



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8. Despite service notice on the respondents, there is no appearance either in person or through counsel.

9. Admittedly, the relationship between the parties is not in dispute. Originally in M.C.No.22 of 2016, the Court below directed the petitioner – husband to pay a sum of Rs.15,000/- per month to the first respondent-wife and Rs.5,000/- per month to the second respondent – daughter as maintenance and also directed to pay school fees for the second respondent every academic year on receiving the school fees structure or fee bill. Since the petitioner – husband failed to pay a sum of Rs.9,04,000/- towards arrears of maintenance amount, the respondents 1 and 2 herein filed a petition in C.M.P.No.2683 of 2022 in M.C.No.22 of 2016, seeking a direction to the third respondent – garnishee to deduct a sum of Rs.25,000/- from the salary of the petitioner and to deposit the same in the account of the first respondent. It is the contention of the petitioner before the Court that he has already paid entire arrears amount, but he failed to file any statement to show his payment and hence the Court below, after considering the employment and status of the



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petitioner-husband and also considering the economical condition of the respondents 1 and 2 herein, allowed the said miscellaneous petition.

10. Considering the facts and circumstances and also considering the relationship between that parties, and also taking note of the employment and status of the petitioner – husband, this Court finds that the petitioner – husband is duty bound to pay monthly maintenance and arrears to the respondents 1 and 2 herein and hence, there is no perversity or infirmity in the finding of the Court below. As there is no merit in the revision petition, the same is liable to be dismissed. Accordingly, this Criminal Revision Petition is dismissed.

26.03.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation Case : Yes/No
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To

1. The Judicial Magistrate,
Ambattur.
2. The Accounts Officer,
Chennai Port Trust,
Rajaji Salai,
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P.VELMURUGAN, J.

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