



Crl.R.C.Nos.943 and 946 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 17.04.2025

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Criminal Revision Case Nos.943 and 946 of 2021

Crl.R.C.No.943 of 2021

1. K.P.Sindhu
2. Ashwin Sasikumar
3. Minor Ardhra Sasikumar
Represented by her mother and natural guardian
K.P.Sindhu, the first Petitioner. ... Petitioners

Versus

K.Sasikumar ... Respondent

Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C., to set aside the order dated 26.10.2021 passed in Crl.M.P.No.1847 of 2021 in M.C.No.30 of 2020 by the learned Judicial Magistrate No.I, Tambaram and direct the Respondent to pay the interim maintenance of Rs.20,000/- to the first Petitioner and Rs.15,000/- each to the second and third Petitioners till the disposal of M.C.No.30 of 2020.

Crl.R.C.No.946 of 2021

1. K.P.Sindhu
2. Ashwin Sasikumar
3. Minor Ardhra Sasikumar
Represented by her mother and natural guardian
K.P.Sindhu, the first Petitioner. ... Petitioners



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Versus

K.Sasikumar

... Respondent

Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C., to set aside the order dated 26.10.2021 passed in Crl.M.P.No.1848 of 2021 in M.C.No.30 of 2020 by the learned Judicial Magistrate No.I, Tambaram and direct the Respondent to pay the School fees to the third Petitioner and college fees to the second Petitioner till he completes his course.

For Petitioners : Mr.T.K.S. Bharathy Anandraj
in both cases

For Respondent : No appearance
in both cases

COMMON ORDER

In view of the issues involved in both the Criminal Revision Cases are one and the same, both the cases are taken up for hearing and disposed of by this common order.

2. Criminal Revision Case No.943 of 2021 had been filed to set aside the order dated 26.10.2021 passed in Crl.M.P.No.1847 of 2021 in M.C.No.30 of 2020 by the learned Judicial Magistrate No.I, Tambaram and direct the Respondent to pay the interim maintenance of Rs.20,000/- to the first Petitioner and Rs.15,000/- each to the second and third Petitioners till the



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disposal of M.C.No.30 of 2020.

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3. Criminal Revision Case No.946 of 2021 had been filed to set aside the order dated 26.10.2021 passed in Crl.M.P.No.1848 of 2021 in M.C.No.30 of 2020 by the learned Judicial Magistrate No.I, Tambaram and direct the Respondent to pay the School fees to the third Petitioner and college fees to the second Petitioner till he completes his course.

4. The first Petitioner is the wife of the Respondent herein. She had filed maintenance case in M.C.No.30 of 2020 before the learned Judicial Magistrate No.I, Tambaram. Pending maintenance case, she had filed Crl.M.P.No.1847 of 2021 in M.C.No.30 of 2020 seeking interim maintenance of Rs.20,000/- for herself and Rs.15,000/- each for her children/second and third Petitioners and also Rs.25,000/- as litigation expenses. She had also filed Crl.M.P.No.1848 of 2021 in M.C.No.30 of 2020 seeking reimbursement of College and School fees paid in 2019 to her two children viz., the second and third Petitioners for a sum of Rs.2,10,000/- and Rs.38,565/- respectively totalling Rs.2,48,565/- to the Petitioners and the Respondent also be directed to pay Rs.2,50,000/- towards College and School fees for the year 2021-2022.

5. After hearing the arguments of the learned Counsel for the



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Petitioners and the learned Counsel for the Respondent in both the petitions, the learned Judicial Magistrate No.I, Tambaram, by order dated 26.10.2021 dismissed both the Crl.M.P.Nos.1847 and 1848 of 2021 in M.C.No.30 of 2020.

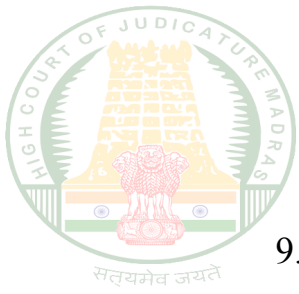
6. Aggrieved by the order of dismissal dated 26.10.2021 passed in Crl.M.P.Nos.1847 and 1848 of 2021 in M.C.No.30 of 2020 by the learned Judicial Magistrate No.I, Tambaram, these Criminal Revision Cases had been filed.

7. Notice sent to the Respondent was returned with an endorsement “Unclaimed”. Still the Court wanted to verify whether any Counsel is filing vakalath on behalf of the Respondent and adjourned the case for two or three hearings. Subsequently, the case was reserved for orders.

Point for consideration:

Whether the order dated 26.10.2021 passed in Crl.M.P.Nos.1847 and 1848 of 2021 in M.C.No.30 of 2020 by the learned Judicial Magistrate No.I, Tambaram, is to be set aside as perverse?

8. Heard the learned Counsel for the Petitioners.



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9. Perused the order dated 26.10.2021 passed in Crl.M.P.Nos.1847 and 1848 of 2021 in M.C.No.30 of 2020 by the learned Judicial Magistrate No.I, Tambaram.

10. On perusal of the orders dated 26.10.2021, it is found that no documents were marked on the side of both parties and only after hearing the arguments, the learned Judge had dismissed the Criminal Miscellaneous Petitions observing that the claim of the first Petitioner/wife of the Respondent that the property purchased by the father of the wife, who was a retired Bank official, in the name of the daughter whereas the husband/son-in-law demanded that the property shall be registered in the joint name of the wife and husband. Accordingly, the property was purchased. Now, the husband is insisting the wife to sign a document for sale of the property as he is in dire need of money, for which, the wife refused which is the reason for the dispute between the husband and wife. Therefore, she had filed maintenance case seeking maintenance from the husband. In the counter, the husband had disputed the claim of the wife, the Petitioner in M.C.No.30 of 2020, stating that the husband was employed in the Gulf countries, his earnings was utilised to purchase the property in the joint name of husband and wife and from the property purchased by the wife, they are in receipt of monthly rents. Therefore, after 26 years of work in the Gulf countries, now he is unemployed. Therefore, he



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sought sale of the property, for which, the wife was not amenable. Considering the rival claims, the learned Judicial Magistrate No.I, Tambaram, had observed that the husband disputed the claim of maintenance and the claim of payment of College and School fees of the children of the first Petitioner and the Respondent. The husband disputed the claim stating that he is unemployed and the wife is in receipt of the rents from the buildings/property purchased in the joint name of the wife and husband. It is the observation of the learned Judicial Magistrate No.I, Tambaram, in the counter when the Respondent/husband claims such fact, the wife had not disputed it by filing rejoinder. Therefore, it is presumed that the wife is in enjoyment of the rent. On that ground, both the Criminal Miscellaneous Petition Nos.1847 and 1847 of 2021 were dismissed by the learned Judicial Magistrate No.I, Tambaram.

11. The wife, who is the first Petitioner in Maintenance Case No.30 of 2020 as well as in the Criminal Miscellaneous Petition Nos.1847 and 1847 of 2021 seeks to set aside the order of the learned Judicial Magistrate No.I, Tambaram and order interim maintenance and educational fees of the children.

12. Considering the fact that in both the petitions, the parties to the petitions had not adduced any evidence, not marked any documents, only based on the oral enquiry, the learned Judicial Magistrate No.I, Tambaram had passed



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orders. When the husband is unemployed after 26 years of work in Gulf countries, the same is found acceptable. There is presumption that based on the remittance of the husband, the properties were purchased in the joint name of the husband and wife. When the husband is employed in Gulf countries and the properties having been purchased in the name of the husband and wife, naturally, the wife and children residing in Chennai nearer to the property purchased by them will be in lie of the rent from the building or property in the joint name of the husband and wife. Therefore, the order passed by the learned Judicial Magistrate No.I, Tambaram, cannot be found fault. It is not perverse. It is found to be well reasoned order. Until and otherwise oral evidence is taken and recorded, the facts stated by both parties cannot be disputed. The facts stated by one party when disputed by other party had to be tested during enquiry by filing evidence till such time the order passed based on arguments may or may not be correct. Considering the fact that the maintenance case itself is ripe for disposal, this Court is not inclined to set aside the order passed by the learned Judicial Magistrate No.I, Tambaram as it is found to be proper and well reasoned judgment.

13. In the light of the above discussion, the point for consideration is answered against the Petitioners and in favour of the Respondent. The orders dated 26.10.2021 passed in Crl.M.P.Nos.1847 and 1848 of 2021 in M.C.No.30



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of 2020 by the learned Judicial Magistrate No.I, Tambaram, is found proper which does not call for any interference by this Court.

In the result, **both the Criminal Revision Petitions are dismissed.** The learned Judicial Magistrate No.I, Tambaram, is directed to dispose of the Maintenance Case No.30 of 2020 at the earliest preferably within a reasonable period of three months from the date of receipt of copy of this order or from the date of uploading of this order on the website of this Court.

17.04.2025

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-speaking Order
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To

1.The Judicial Magistrate No.I, Tambaram

2.The Section Officer,
Criminal Section,
High Court, Madras.



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SATHI KUMAR SUKUMARA KURUP, J.

srm

Order made in
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