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CrI.R.C.No.2405 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.R.C.No.2405 of 2024

C.Saravanan

... Petitioner

Vs.

1.S.Tamil Selvi

2.Minor S.Harini

Represented by her mother S.Tamil Selvi

... Respondents

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C., to set aside the order dated 10.11.2023 passed in I.A.No.2 of 2023 in M.C.No.53 of 2022 by the learned Family Court, Tiruppur by allowing this revision petition.

For Petitioner : Mr.S.Dharani

For Respondents : Mr.M.Dinesh Sharma

ORDER

The revision challenges the order passed in I.A.No.2 of 2023 in M.C.No.53 of 2022, in which, the petitioner was directed to make a conditional deposit of Rs.30,000/- and to pay the school fee of the second respondent herein.



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2.The learned counsel for the petitioner would submit that he has not aggrieved by the condition *per se* but by the impugned order, the learned Judge had observed that if the condition is not complied within the stipulated period, the order setting aside the *ex-parte* order would stand vacated automatically; that since he could not comply with the conditional order within time, the impugned order stood vacated and therefore he is unable to contest the case on merits and he has fair chance of success before the trial Court in M.C.No.53 of 2022.

3.The learned counsel would further submit that though the petition to set aside the *ex-parte* order was dismissed, he has been paying a sum of Rs.10,000/- to the respondents (Rs.5,000/- to first and second respondent respectively); that he had also paid the school fee and had also transferred Rs.10,000/- on two occasions to the respondents, hence, the impugned order may be set aside and the petitioner may be permitted to contest the case on merits.



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4.The learned counsel for respondents per contra would submit that as against the order in the main M.C., directing the petitioner to pay a sum of Rs.15,000/- each to the respondents, the petitioner had been paying only Rs.10,000/- per month and that the school fee was paid by the petitioner.

5.In the light of the above submission, this Court is of the view that though the petitioner had not complied with the conditional order, considering the fact that the petitioner had been paying a sum of Rs.10,000/- every month to the respondents, he can be granted an opportunity to contest the case on merits on condition that the petitioner shall pay a sum of Rs.2,00,000/- towards arrears of maintenance to the respondents within a period of four weeks from the date of receipt of a copy of this order. On such payment, the learned Judge, Family Court, Tiruppur may set aside the *ex-parte* order and decide M.C.No.53 of 2022, after giving an opportunity to the petitioner to contest it, on merits.



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SUNDER MOHAN, J.

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6.With the above observations, the Criminal Revision Case is
allowed.

06.01.2025

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

rsi

To

1.The Judge,
Family Court, Tiruppur

2.The Public Prosecutor,
High Court, Madras.

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