



Crl.O.P.No.1649 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No. 1649 of 2024

Pradeep Kumar

..... Petitioner

Vs

1. V.Selvi
2. P.Sreejith,
3. P.Pradeetha

..... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to set-aside the order of the Special Court under POCSO Act/Full Additional Charge of Family Court, Nagapattinam made in C.M.P.No.01 of 2022 in M.C.No.01 of 2019 dated 28.09.2022.

For Petitioner	:	Mr.M.R.Thangavel
For R1	:	Mr.S.Ravi
For R2 & R3	:	No appearance

ORDER

This Criminal Original Petition has been filed challenging the order dated 28.09.2022 passed in CMP No.01 of 2022 in M.C.No.01 of 2019 by the Sessions Judge, Special Court under POCSO Act, Nagapattinam, holding full additional charge of Family Court,



CrI.O.P.No.1649 of 2024

WEB COPY

Nagapattinam, thereby issued arrest warrant as against the petitioner to recover a sum of Rs.25,89,700/-.

2. Heard the learned counsel appearing for the petitioner.

Though the counsel represented on behalf of the first respondent, there was no representation on behalf of the 2nd and 3rd respondents. Perused the materials available on record.

3. The petitioner is the husband and the first respondent is the wife. They got married and gave birth to the second and third respondents herein. Due to misunderstanding, they got separated. Thereafter, the first respondent could not able to maintain herself and filed a petition seeking maintenance in M.C.No.01 of 2019 on the file of the Family Court, Nagapattinam. In the maintenance case, the petitioner was directed to pay a sum of Rs.12,000/- per month as monthly maintenance. However, the petitioner did not comply with the same and as such, the respondents filed a petition under Section 128 of Cr.P.C. After enquiry, the Trial Court issued a warrant to recover a sum of Rs.25,89,700/- from the petitioner. Aggrieved by the same, the petitioner has filed the present petition.



Crl.O.P.No.1649 of 2024

4. Pending this petition, the respondents 2 and 3 had appeared before this Court and submitted that they do not have any claim for maintenance against the petitioner. It is stated that the second respondent is an Advocate practising in Kerala and the third respondent is a qualified Medical practitioner. Considering the facts and circumstances of the case, this Court, by an order dated, 14.02.2024, directed the petitioner to pay a sum of Rs.12,000/- as monthly maintenance to the first respondent, pending disposal of this petition.

5. The learned counsel for the petitioner would submit that the Trial Court failed to take into consideration the payments already made by the petitioner to the first respondent. The petitioner also produced payment details before this Court.

6. In view of the above, the order dated 28.09.2022 passed in CMP No.01 of 2022 in M.C.No.01 of 2019 by the Sessions Judge, Special Court under POCSO Act, Nagapattinam, holding full additional charge of Family Court, Nagapattinam, is hereby set aside and the matter is remanded back to the Trial Court for fresh consideration to take into account the payments already made by the petitioner. The Trial Court is



CrI.O.P.No.1649 of 2024

directed to conduct a fresh enquiry and consider the payment so far made by the petitioner as monthly maintenance to the first respondent and pass orders in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that the warrant issued as against the petitioner shall be kept in abeyance till the disposal of the petition filed under Section 128 of Cr.P.C.

7. In the result, this Criminal Original Petition stands allowed.

06.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Lpp

To

The Sessions Judge,
Special Court under POCSO Act,
Nagapattinam,
holding full additional charge of
Family Court,
Nagapattinam.



WEB COPY



Crl.O.P.No.1649 of 2024

G.K.ILANTHIRAIYAN, J.

Lpp

Crl.O.P.No.1649 of 2024

06.02.2025