



CrI.R.C.No.2121 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.R.C.No.2121 of 2024
and
CrI.M.P.No.16847 of 2024

K.Padmanaban @ Mohan,

...Petitioner/Appellant

Vs.

M.Bhuvaneshwari

...Respondent/Respondent

PRAYER: Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, 2023, to set aside the order dated 19.07.2023 passed in C.M.P.No.546 of 2022 in M.C.No.34 of 2020 on the file of the Family Court, Erode and quash the same.

For Petitioner : Mr.S.Ilamuhil

For Respondent : Mr.R.Guruprasad



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ORDER

[For the sake of convenience parties are referred to as per rank in the revision]

The revision challenges the dismissal of the petitioner's petition, i.e., C.M.P.No.546 of 2022 in M.C.No.34 of 2020, dated 19.07.2023 on the file of the learned Judge, Family Court, Erode, filed under Section 126(2) of the Criminal Procedure Code seeking to set aside the *ex-parte* order passed against the petitioner, directing him to pay a sum of Rs. 10,000/- per month as maintenance to the respondent herein.

2. The respondent/wife had filed M.C.No.34 of 2020 before the learned Judge, Family Court, Erode, dated 06.10.2022, seeking maintenance for herself and two minor children.

3. Though notice was served on the petitioner/husband, he remained *ex-parte* and thereafter, the respondent/wife examined herself as P.W.1 and another witness as P.W.2.



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4. Considering the evidence, the Family Court, Erode, had awarded a maintenance of Rs.10,000/- (Rupees Ten Thousand only) per month to the respondent. The *ex-parte* order was passed on 06.10.2022. The petitioner thereafter filed the petition under Section 126(2) of the Cr.P.C., seeking to set aside the *ex-parte* order, stating that he became ill suddenly and there was a setback in his family, and therefore, he could not appear and contest the proceedings. The Family Court, Erode, had dismissed the said petition on the ground that the petitioner had failed to appear in another connected proceeding in G.W.O.P.No.468 of 2021, filed by the respondent and the petitioner's absence is deliberate, only to defeat and deny the claim of the respondent.

5. Heard Mr.S.Ilamuhil, the learned counsel appearing for the petitioner/husband and Mr.R.Guruprasad appearing for the respondent/wife.

6. Mr.S.Ilamuhil, the learned counsel for the petitioner, would submit that it is not the petitioner's intention to delay or deny the payment of the



maintenance amount; that as against the arrears of Rs.5,30,000/- (Rupees Five Lakhs Thirty Thousand only), he has already paid Rs.2,10,000/- (Rupees Two Lakhs Ten Thousand only) on various dates to the respondent; and that he may be permitted to contest the case on merits.

7. Mr.R.Guruprasad, the learned counsel for the respondent on instructions, would submit that the petitioner had paid Rs.2,10,000/- (Rupees Two Lakhs Ten Thousand only) and a sum of Rs.3,20,000/- (Rupees Three Lakhs Twenty Thousand only), is now due and payable by the petitioner towards the arrear of maintenance; and that since the petitioner is in the habit of ignoring the Court proceedings, no indulgence need be shown to the petitioner.

8. Considered the rival submissions on either side and perused the impugned order.

9. Admittedly, the petitioner had paid Rs.2,10,000/- (Rupees Two Lakhs Ten Thousand only) to the respondent on various dates. Though this



Court is of the view that the impugned order cannot be faulted, however, considering the fact that the petitioner has already paid Rs.2,10,000/- (Rupees Two Lakhs Ten Thousand only) to show his bonafides, this Court is of the view that the impugned order can be set aside on the further condition that the petitioner pays a sum of Rs.1,00,000/-(Rupees One Lakh only) to the respondent within a period of four weeks from the date of receipt of a copy of this order. On such payment, the impugned order could be set aside, and the petitioner can be permitted to contest the case on its merits.

10. The learned Judge, Family Court, Erode, may dispose of M.C.No.34 of 2020 as expeditiously as possible on merits and in accordance with law. It is needless to say that it is open to both parties to seek enhancement or reduction, as the case may be, of the amount awarded by the earlier order dated 06.10.2022 passed by the learned Judge, Family Court, Erode, in M.C.No.34 of 2020.



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WEB COPY 11. With the above observations, the revision petition is disposed of.

Consequently, the connected miscellaneous petition is closed.

09.01.2025

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
dk

Copy to:
The Judge,
Family Court,
Erode.



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SUNDER MOHAN, J.

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