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Crl.R.C.No.1713 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2025

CORAM:

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

Crl.R.C.No.1713 of 2024
and Crl.M.P.Nos.14153 of 2024 & 1289 of 2025

Prabhu

... Petitioner

Vs.

1. Sudha
2. Minor Pratheesh
3. Minor Harshan

... Respondents

PRAYER: Criminal Revision has been filed under Section 438 r/w 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the records of the impugned order dated 26.06.2024 made in C.M.P.No.4722 of 2023 in M.C.No.4 of 2014 passed by the learned Judicial Magistrate No.I, Mettur, Salem District and set aside the same and allow this Criminal Revision Petition.

For Petitioner : Mr.M.R.Jothimanian

For Respondents : Mr.K.Prabhakaran

ORDER

This Criminal Revision has been preferred challenging the order dated 26.06.2024 passed by the learned Judicial Magistrate No.I, Mettur, Salem District, in Crl.M.P.No.237 of 2025, thereby allowing the petition filed under



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Section 128 of Cr.P.C., and also directed the petitioner to pay the arrears of maintenance.

2. The petitioner is the husband and the first respondent is the wife. The second and third respondents are their minor children. The petitioner got married the first respondent on 20.11.2009 and gave birth to the respondents 2 & 3 herein. Due to misunderstanding between them, they got separated and as such, the respondents could not able to maintain themselves and filed petition seeking monthly maintenance in M.C.No.4 of 2014 on the file of the learned Judicial Magistrate No.I, Mettur. The first respondent also filed complaint under the domestic violence Act in D.V.O.P.No.2 of 2014. The trial Court by an order dated 04.03.2017 ordered maintenance to pay a sum of Rs.3,000/- to the first respondent and Rs.2,000/- each to the respondents 2 & 3 herein as monthly maintenance. Aggrieved by the same, the petitioner had preferred a revision before the II Additional District Court, Salem and the same was allowed and the order passed by the trial Court was set aside and it was remitted back to the trial Court for fresh trial. Thereafter, the trial Court passed order that the order dated 04.03.2017 itself is valid.



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3. Once again the petitioner preferred revision in C.R.P.No.19 of 2017 on the file of the II Additional District Judge, Salem and the same was also dismissed on 16.02.2018. Subsequently, the petitioner also filed an application seeking divorce in H.M.O.P.No.630 of 2019 before the Family Court, Salem. However, the petitioner failed to comply the order of the maintenance. Therefore, the respondents herein filed an application under Section 128 of Cr.P.C., in C.M.P.No.4722 of 2023 to execute the order passed by the trial Court. It was allowed and the petitioner was directed to pay the arrears of the maintenance to the tune of Rs.7,09,000/- from 23.09.2017 to 08.06.2023. Aggrieved by the same, the petitioner filed the present revision.

4. The learned counsel appearing for the petitioner would submit that the petition filed by the respondents itself is not maintainable since, the respondents filed application under Section 128 of Cr.P.C., in which, claim to be made within a period of one year from the date of the order. However, it was filed only in the year 2024 to comply the order passed in 2017. He further submitted that the first respondent is working as staff nurse and she is capable of maintaining herself and hence the petitioner is not liable to pay any compensation. While granting interim order, this Court imposed condition on



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the petitioner to pay a sum of Rs.3,00,000/- to the respondents and the same was complied with. Thereafter, this Court directed the petitioner to deposit a sum of Rs.1,50,000/- before the trial Court and the petitioner could not able to comply the said order.

5. The learned counsel appearing for the respondent submitted that the respondents filed application under Sections 128 & 125(3) of Cr.P.C. Therefore, it is not barred by any limitation since, the application was filed to execute order passed by the trial Court in M.C.No.4 of 2014. So far, the petitioner failed to comply with the order passed by the Trial Court and he had not paid a single paise in order to comply with the order passed by the trial Court.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. On perusal of the records, it is revealed that the respondents filed application under Sections 128 & 125(3) of Cr.P.C., in order to execute the order passed by the trial Court. There is absolutely no bar to file application under Section 125(3) of Cr.P.C., to execute the maintenance order. The



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maintenance order was passed by the trial Court on 04.03.2017 and also it was confirmed by the revision Court. Further, the petitioner ought to have complied the order passed by the trial Court in accordance with law.

8. Though the petitioner had taken specific stand that the first respondent is working as staff nurse, nowhere the petitioner had whispered about the fact that the first respondent is working as staff nurse or any other department. In fact, the order of maintenance was also reviewed by the revisional Court as such in the execution Court, the petitioner cannot take a stand that the first respondent is working as staff nurse. Therefore, there is no infirmity or illegality in the order passed by the trial Court in C.M.P.No.4722 of 2023 in M.C.No.4 of 2014, dismissed.

9. Accordingly, the Criminal Revision Case stands dismissed. Consequently, connected miscellaneous petitions are closed.

03.06.2025

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

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G.K.ILANTHIRAIYAN. J,

rts

To

The Judicial Magistrate No.I,
Mettur, Salem District

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Crl.M.P.Nos.14153 of 2024 & 1289 of 2025

03.06.2025