



WEB COPY



Crl.RC No.1702 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1702 of 2024

1.A.Benazir

W/o.Mohammed Javeed Haneef

2.Minor Sara

D/o. Mohammed Javeed Haneef

[Rep. by Minor Rep. by her Mother
and Natural Gaurdian]

...Petitioners/Petitioners

Vs.

Mohammed Javeed Haneef

... Respondent/Respondent

PRAYER: Criminal Revision Case filed under Sections 438 r/w 442 of the BNSS, 2023, to call for the entire records in connection with the order dated 03.07.2024 in M.P.No.1233 of 2022 in M.C.No.364 of 2021 passed by the Court of the VII Additional Principal Family Court, Chennai and set aside the same.

For Petitioners : Mr.R.Sankarasubbu

For Respondent : Mr.S.Karthikei Balan



ORDER

The revision challenges the order passed by the learned Principal Judge, Family Court, Chennai, setting aside the *ex parte* order passed in M.P.No.1233 of 2022 in M.C.No.364 of 2021, directing the respondent to pay a sum of Rs.40,000/- (Rupees Forty Thousand only) each (totaling Rs.80,000/-) to the petitioners.

2.Mr.R.Sankarasubbu, the learned counsel for the petitioners, would submit that the respondent/husband had not paid any amount towards maintenance; that the first petitioner/wife is unemployed and therefore, she is unable to maintain the second petitioner/daughter, who is aged about five years; and that if no conditions are imposed for setting aside the *ex parte* order, the petitioners would be put to untold sufferings.

3. Mr.S.Karthikei Balan, the learned counsel for the respondent/husband, *per contra*, would submit that the respondent had lost his job during the COVID period; that his salary is less and therefore, the order directing him to pay a sum of Rs.40,000/- each to the petitioners is impossible to comply with and he must be allowed to contest the case on merits; and that there is no infirmity in the order



impugned, setting aside the *ex parte* order by directing him to pay a cost of Rs.20,000/- (Rupees Twenty Thousand only).

4. Heard the learned counsel on either side and perused the materials available on record.

5. It is not in dispute that the respondent had not paid any amount towards maintenance of the petitioners. The second petitioner is aged about five years and the first petitioner is unemployed. Even if the respondent is directed to pay Rs.10,000/- per month (Rupees Ten Thousand only) from the date of the petition, the arrears of maintenance would come to around Rs.5,00,000/- (Rupees Five Lakhs only).

6. Therefore, in the interest of the parties concerned, this Court is of the view that the impugned order can be sustained on condition that the respondent pays a sum of Rs.5,00,000/- (Rupees Five Lakhs only) and pays a sum of Rs. 20,000/- (Rupees Twenty Thousand only) imposed as cost to the second petitioner/daughter within a period of four (4) weeks. On such payment, the trial Court may consider M.C.No.364 of 2021 on merits as expeditiously as possible.



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7. With the above direction, this Criminal Revision Case is
allowed.

06.01.2025

Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No.
dk

To

The Principal Judge,
Family Court,
VII Additional Principal Family Court (FAC)
Chennai.



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SUNDER MOHAN, J.

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