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CRL RC No. 199 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2025

CORAM

THE HONOURABLE MR JUSTICE P. VELMURUGAN

CRL RC No. 199 of 2024

and

CRL MP No.1723 of 2024

1. S.Lawrence Vinoth Kumar
S/o. Selvaraj,
No.80, Stalin Street,
Thiruvengadapiram,
Ponneri,
Tiruvallur District - 601 201.

Petitioner(s)

Vs

1. V.Vinothini
W/O. Lawrence Vinoth Kumar

2.Minor Cindrella Prince
(Minor Rep.By her natural Guardian 1st
Respondent)
Both 1 and 2 residing at No.1A, Iyyanar
Avenue, Oil Mill,
(IRN Kalyana Mandabam Back Side)
Tiruvallur District - 602 001.

Respondent(s)



PRAYER: This Criminal Revision Petition filed under Section 397 read with 401 of Cr.P.C to set aside the order dated 18.08.2023 made in M.C.No.25 of 2022 on the file of the Family Court, Thiruvallur.

For Petitioner(s): Mr. A.R.Suresh

For Respondent(s): Mr.R. Karunagaran

ORDER

This Criminal Revision Petition has been filed to set aside the order dated 18.08.2023 passed in M.C.No.25 of 2022 on the file of the Family Court, Thiruvallur.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

3. Learned counsel for the petitioner/husband submitted that the petitioner had already filed divorce petition against the first respondent/wife in IDOP No.326 of 2018 on the file of the Principal District Court, Tiruvallur. Pending the said divorce OP, the respondents had filed a petition under Section 125 Cr.P.C., in MC.No.25 of 2022 on the file of the learned Judge, Family Court at Tiruvallur for maintenance. The learned Judge, Family Court *vide* order dated



respondent/wife and Rs.10,000/- to the second respondent/child as maintenance.

Challenging the same, the petitioner has filed this revision petition.

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4. The main contention of the learned counsel for the petitioner is that the first respondent/wife had already approached the Principal District Court, Tiruvallur, where the divorce OP is pending, for interim maintenance in I.A.No.30 of 2019 in IDOP No.356 of 2018 and the learned Principal District Judge ordered interim maintenance *vide* order dated 03.07.2020. If any change of circumstances, the first respondent/wife wants enhancement of maintenance, she should approach the learned Principal District Court, where the IDOP is pending. Instead of approaching the said Principal District Court, she had filed a maintenance case in M.C.No.25 of 2022 before the Family Court, Tiruvallur. Though the fact about the pendency of IDOP before the Principal District Court is brought to the notice of the Family Court, without considering the same and without jurisdiction, the learned Judge, Family Court, Tiruvallur passed the impugned order and the same is liable to be set aside.

5. Learned counsel for the respondents submitted that though the first respondent had filed interim maintenance in pending IDOP, the said OP is



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pending for a long time and hence she has approached the Family Court for maintenance. The Family Court has got every jurisdiction to entertain the maintenance case. While passing the order in the maintenance case, the learned Judge, Family Court has also considered the interim maintenance granted by the Principal District Court. Hence, the order passed by the Family Court need not be interfered with.

6. Admittedly, the petitioner/husband filed a divorce petition against the first respondent/wife in IDOP No.326 of 2018 on the file of the Principal District Court, Tiruvallur. Pending IDOP, the first respondent/wife had filed an application under Section 36 of the Indian Divorce Act in I.A.No.30 of 2019 seeking interim maintenance. The Principal District Court, *vide* order dated 03.07.2020 ordered interim maintenance for a sum of Rs.7,500/- to the first respondent/wife and Rs.2,500/- to the child, the second respondent herein and also directed to pay Rs.5,000/- towards litigation expenses. Neither of the parties have challenged the said order.

7. According to the petitioner/husband, he duly complied with the order passed by the Principal District Court and paying the maintenance amount to



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the respondents till the divorce OP is pending. If the first respondent/wife feels that, due to change of circumstances and also rise in price index, the interim maintenance ordered by the Principal District Court is not sufficient, they have every right to approach the very same Court ie., the Principal District Court, Tiruvallur. Instead of approaching the Principal District Court where the divorce IDOP is pending, the first respondent/wife approached the Family Court by invoking Section 125 Cr.P.C.

8. It is a settled proposition of law, that the scope and object of Section 125 Cr.P.C., is that if a woman/wife has no means to maintain herself, then wife is entitled to get the maintenance from her husband.

9. Since the petitioner/husband had already filed a divorce petition against the first respondent/wife and pending divorce petition, the first respondent/wife had also approached the Principal District Court, where the divorce OP is pending for interim maintenance and the same was also ordered. At the time of disposal of OP, the respondents can insist the prior alimony or if they want enhancement, they can approach the very same court, who passed the interim alimony. Instead of approaching the Principal District Court where the OP is



pending, the first respondent approached the Family Court and the same is not maintainable.

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10. Under the above facts and circumstances of the case, the order dated 18.08.2023 passed in M.C.No.25 of 2022 by the file of the Family Court, Thiruvallur, is hereby set aside. However, the respondents are at liberty to approach the Principal District Court, Tiruvallur, where the IDOP is pending for enhancement of maintenance amount. If such application is filed by the respondents, the learned Principal District Judge, Tiruvallur shall consider the same and pass orders on merits and in accordance with law without delay.

11. With the abovesaid directions, this Criminal Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed.

25-03-2025

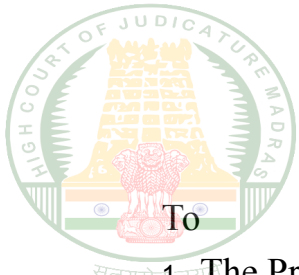
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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

1. The Principal District Court, Tiruvallur.
2. The Family Court, Thiruvallur.



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P.VELMURUGAN J.

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