



WEB COPY



Crl.R.C.No.2317 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2317 of 2024
and Crl.M.P.No.17923 of 2024

V.Madeshwaran

... Petitioner

Vs.

M.Asha

... Respondent

PRAYER: Criminal Revision Case filed under Section 438 & 442 of B.N.S.S, 2023, seeking to set aside the order passed in Crl.M.P.No.48 of 2024 in M.C.No.67 of 2022 dated 04.10.2024 on the file of the learned Principal Judge, Principal Family Court at Coimbatore in dismissing the petition to set aside the exparte order filed under Order IX Rule 13 of the Code of Civil Procedure, 1908.

For Petitioner : Mr.S.P.Vishnu Prasath

For Respondent : Mr.J.Maheswaran
for C.R.Prasannan

ORDER



Crl.R.C.No.2317 of 2024

The revision challenges the order passed by the learned Principal Family Judge, Coimbatore, directing the petitioner to deposit Rs.1 lakh before the trial Court on or before 03.10.2024, as a condition to set aside the exparte order passed against the petitioner.

2.The petitioner admittedly has not complied with the condition to deposit Rs.1 lakh. The respondent had sought for maintenance in M.C.No.67 of 2022, which was ordered exparte directing the petitioner to pay Rs.7,500/- per month. Since the petitioner did not comply with the said order, the respondent filed C.M.P.No.103 of 2023 for a direction to the petitioner to pay arrears of Rs.1,31,854/- failing which to sentence the petitioner to imprisonment. While the petition was pending, the petitioner filed C.M.P.No.48 of 2024 for setting aside the exparte order. The learned Judge passed the impugned order directing the petitioner to deposit Rs.1 lakh.

3.The learned counsel for the petitioner submitted that the petitioner appeared before the Court, that he engaged a lawyer; that his lawyer did not



inform him about the hearing, he could not appear; that his mother passed away; and that therefore the non appearance was neither wilful nor wanton.

4.The learned counsel for the respondent per contra submitted that the order of the learned Judge would make it very clear that the petitioner had appeared before the trial Court, participated in counselling sessions and thereafter did not file counter; that therefore, he cannot claim ignorance of the proceedings; and that the petitioner's mother died in the year 2021, and hence it has nothing to do with the non appearance of the petitioner in the year 2023.

5.This Court finds that the conduct of the petitioner in not appearing after entering appearance before the trial Court and allowing the case to be decided exparte cannot be countenanced. It is only after the respondents sought for arrears of maintenance, the petitioner had filed the petition to set aside the exparte order.

6.Admittedly, the petitioner had not paid maintenance from the year



CrI.R.C.No.2317 of 2024

2022. Therefore, this Court is of the view that the impugned order directing

WEB COPY



WEB COPY



CrI.R.C.No.2317 of 2024

SUNDER MOHAN, J.
kas

the petitioner to pay Rs.1 lakh as a condition to restore the M.C.No.67 of 2022 cannot be faulted. However, this Court is of the view that the petitioner can be granted four weeks time from the date of receipt of a copy of this order, to make the payment to the respondent, failing which the order impugned would be confirmed. In the event of the petitioner complying with the order passed by this Court, the M.C.No.67 shall be restored and the learned Judge may dispose it of as expeditiously as possible.

7.This Criminal Revision Case stands disposed of accordingly.
Consequently, the connected miscellaneous petition is closed.

27.01.2025

kas

To

1.The Principal Judge
Principal Family Court
Coimbatore

CrI.R.C.No.2317 of 2024
and CrI.M.P.No.17923 of 2024