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Crl.R.C.No.2406 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2406 of 2024

Mohamad Bathak

... Petitioner

Vs.

1.Syed Rabiymmal

2.Minor Hadhik Syed

Rep by his natural guardian

Syed Rabiymmal/mother the 1st respondent

... Respondents

PRAYER: Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to set aside the conditional order passed by the learned District Munsif cum Judicial Magistrate, Madathukulam in C.M.P.No.2718 of 2024 dated 15.11.2024 in M.C.No.10 of 2022.

For Petitioner : Mr.K.Anusuya

ORDER

The revision challenges the order passed by the learned District Munsif cum Judicial Magistrate, Madathukulam, directing the petitioner to



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pay a sum of Rs.5,000/- as interim maintenance to the respondents herein as a condition for allowing his petition to recall PW1 and PW2 for cross examination.

2.The petitioner is the respondent in M.C.No.10 of 2022 on the file of learned District Munsif cum Judicial Magistrate, Madathukulam. The respondents preferred the said petition seeking maintenance from the petitioner herein. The respondents examined PW1 and PW2 and the petitioner sought for cross examining the said witnesses. The learned Magistrate allowed the petition on the condition that the petitioner shall pay a sum of Rs.5,000/- as interim maintenance to the respondents herein pending disposal of M.C.No.10 of 2022.

3.The learned counsel for petitioner would submit that in a recall petition the condition imposed by the learned Magistrate to pay interim maintenance is unwarranted and in any case onerous and that the learned



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Magistrate ought to have examined the Assets and Liabilities of parties concerned before ordering interim maintenance and prayed for setting aside the conditional order.

4.The learned counsel further submitted that the impugned order does not call for any interference as there is no infirmity; that since the petitioner did not pay the interim maintenance for the month of December, 2024, the learned Magistrate in his proceedings dated 06.12.2024 closed the petitioner's side evidence, as the conditional order was not complied with.

5.This Court is of the view that pending the maintenance case, the learned Magistrate can direct the payment of interim maintenance and therefore the order directing payment of interim maintenance cannot be faulted even if no request is made by the claimants. The learned counsel for the petitioner is unable to point out as to how the sum of Rs.5,000/- directed to be paid to the respondents is unreasonable. Hence, the petitioner is directed



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to comply with the conditions imposed by the learned District Munsif cum
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Judicial Magistrate, Madathukulam.

6.In view of the same, on payment of interim maintenance the closure of petitioner's side evidence would be set aside. The petitioner shall cross examine PW1 and PW2 within a period of four weeks from the date of receipt of a copy of this order. It is needless to say that the petitioner also shall be afforded an opportunity to examine himself in the case and after the evidence is closed, the learned Magistrate may pass appropriate orders in the main case.

7.With the above observations, the Criminal Revision Case is disposed of.

02.01.2025

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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To
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- 1.The District Munsif cum Judicial Magistrate,
Madathukulam.
- 2.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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