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Crl.R.C(MD)No.895 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 22.01.2025

Pronounced on : 16.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.895 of 2024

and

Crl.M.P(MD)No.9887 of 2024

Baskaselvan

... Petitioner

Vs.

Amalajothi

... Respondent

PRAYER: This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, to call for the records in Crl.M.P.No.1531 of 2024 in M.C.No.4 of 2018 on the file of the Judicial Magistrate, Thiruvadanai, Ramanathapuram District, dated 16.08.2024 and set aside the same by allowing the revision petition.

For Petitioner : Mr.D.Balamurugapandi

For Respondent : Mr.K.Ramanathan



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ORDER

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This Criminal Revision Case is filed against the order, dated 16.08.2024 made in Crl.M.P.No.1531 of 2024 on the file of the learned Judicial Magistrate, Thiruvadanai and to set aside the same.

2.The brief facts of the case:

The respondent filed a case in M.C.No.4 of 2018 U/s.125 of the Cr.P.C. before the learned District Munsif-cum-Judicial Magistrate, Thiruvadanai, seeking maintenance from the petitioner. The case was allowed by the trial Court, directing the petitioner to pay Rs.10,000/- p.m., to the respondent from the date of filing the petition, by its order, dated 20.02.2020. As per the order, the petitioner has not paid the maintenance and on filing Crl.M.P.No.330 of 2021 by the respondent, the petitioner paid the maintenance from the date of the petition i.e., from 14.05.2018 till 12.09.2020; thereafter, he failed to pay. So, the respondent filed the petition U/s.128 of Cr.P.C. in Crl.M.P.No.1531 of 2024 in M.C.No.4 of 2018 before the Judicial Magistrate Court, Thiruvadanai. The learned Judicial Magistrate heard both side and passed order, dated 16.08.2024, directing the petitioner to pay arrear maintenance of Rs.1,20,000/- from 01.10.2020 to 31.09.2021 to the respondent on or before 03.09.2024, failing which, the respondent would take further action as per Schedule II under Cr.P.C. Aggrieved



by the said order, the revision petitioner has preferred this present Criminal Revision Case.

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3. Heard the learned counsel appearing for the petitioner and the learned counsel for the respondent.

4. The learned counsel appearing for the revision petitioner has submitted that the respondent is not his wife and hence he preferred the appeal. He would further submit that the petitioner is struggling for his self maintenance due to inability to go to work and would further submit that an ex-parte order was passed regarding maintenance as the petitioner was suffering from illness. The trial Court has not considered the case of the petitioner and passed the impugned order, so the same may be set aside.

5. The learned counsel for the respondent argued that the respondent filed the maintenance case in the year 2018 as she was not maintained by the petitioner as a dutiful husband. The petitioner entered appearance, and even though he filed a counter, he later remained ex-parte. After granting sufficient opportunity for hearing the petitioner, the trial Court passed the order on 20.02.2020, directing the petitioner to pay the maintenance to the respondent from the date of petition. The petitioner has not paid as ordered and so, the respondent filed



Crl.M.P.No.330 of 2021 and received maintenance from the date of petition, i.e., from 14.05.2018 till 12.09.2020. Again, he committed default in payment of maintenance and so, the respondent filed the petition in Crl.M.P.No.1531 of 2024 U/s.128 Cr.P.C. and obtained direction order. In spite of that the respondent has not paid any amount so far. The respondent again filed three petitions in Crl.M.P.Nos.3744, 3745 and 3746 of 2024 U/s.128 of Cr.P.C. before the learned Judicial Magistrate, Thiruvadanai and the same are pending. To escape the said proceedings, the petitioner has filed this criminal revision case after the lapse of three years, which is also not maintainable.

6. On hearing both and on perusal of records, it is clear that the respondent has filed the maintenance case in the year 2018 against the petitioner. It is the case of the respondent that she was a divorcee, a per order passed in H.M.O.P.No. 71 of 2013 on the file Sub Court, Ramanathapuram and the petitioner got married to her on 01.08.2014. It is the further case of the respondent that the petitioner has not maintained her and left her, and hence she filed the maintenance case. The petitioner appeared in that case through counsel and filed a counter, denying the relationship of the respondent as wife. In spite of several opportunities given, the petitioner has not availed those opportunities and hence the order was passed on 20.02.2020 directing him to pay maintenance at Rs.10,000/- p.m. to the respondent.



7. Now, the petitioner contends that he is not the husband of the respondent and filed the criminal revision case. On perusal of records, the petitioner filed the criminal revision before the Principal Sessions Court, Ramanathapuram with a delay condonation petition in Crl.M.P.No.583 of 2024 in unnumbered Crl.Revision Petition /2023 and the same was dismissed on 05.10.2023. Challenging the said order, the petitioner filed Crl.R.C.No.1311 of 2023. Thereafter, the petitioner has filed this criminal revision case against the impugned order of direction passed by the learned Judicial Magistrate to pay the arrears on or before 03.09.2024. While admitting the case, this Court directed the petitioner to deposit 50% of arrears and accordingly, the petitioner deposited Rs.60,000/- and the same was withdrawn by the respondent.

8. It is also not in dispute that the respondent has also filed the petitions in Crl.M.P.Nos.3744, 3745 and 3746 of 2024 U/s.128 of Cr.P.C. before the learned Judicial Magistrate, Thiruvadanai and the same are pending. The petitioner has not produced sufficient materials to show his illness and inability to go to work. The petitioner is bounden to pay the maintenance until the marital tie is legally broken. Therefore, this Court does not find any irregularity or illegality in the impugned order of the learned Judicial Magistrate, Thiruvadanai. Thus, this Criminal Revision Case fails and the same is liable to be dismissed.



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9. In the result, this Criminal Revision Case is dismissed. Consequently, the connected Criminal Miscellaneous Petition is closed.

.04.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

1.The Judicial Magistrate,
Thiruvadanai,
Ramanathapuram District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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