

(2012) 11 MAD CK 0261

In the Madras High Court

Case No : Criminal O.P. (MD) No. 14090 of 2012 and M.P. (MD) . No. 1 of 2012

Sivasamy

APPELLANT

Vs

Ramathilagam and 2 Others

RESPONDENT

Date of Decision : 15-11-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125, 397(3), 482

Citation : (2013) 1 LW(Cri) 90

Hon'ble Judges : T. Sudanthiram, J

Bench : Single Bench

Advocate : T.R. Subramanian, for the Appellant;

Final Decision : Dismissed

Judgement

T. Sudanthiram, J.—The petitioner herein is a respondent in M.C. No. 1 of 2011, on the file of the Judicial Magistrate, Ottanchatram. The first respondent herein filed a petition u/s 125 Cr.P.C. seeking maintenance for herself and also for their two minor child. Learned Judicial Magistrate, Ottanchatram, passed an order, directing the petitioner herein to pay a sum of Rs. 2,500/- to the first respondent herein and a sum of Rs. 2,000/- each to the respondents 2 & 3 herein, who are minors, as monthly maintenance. Challenging the said order, the petitioner herein preferred a revision before the learned Principal Sessions Judge, Dindigul. Learned Principal Sessions Judge, Dindigul, has dismissed the revision petition, confirming the order passed by the learned Judicial Magistrate, Ottanchatram. Challenging the said order, the petitioner now has filed this criminal original petition, invoking the provision u/s 482 Cr.P.C. Learned counsel for the petitioner submits that the petitioner herein is only a constable and his total salary is Rs. 20,000/-. After deductions, he is getting Rs. 5,000/- only. While so, the Courts below erroneously ordered maintenance amount higher than his income,

2. Heard the submissions of the learned counsel for the petitioner and perused the records. Out of the total salary of Rs. 20,000/-, according to the petitioner, deductions were made. The petitioner has not given any details as to under what

circumstances deductions were made. The revision Court also had dealt with the point raised by the petitioner in detail and it was also observed by the learned Principal Sessions Judge that the petitioner herein, in order to avoid giving maintenance to the respondents herein, availed G.P.F. loan just before the issuance of pay certificate and from the pay slip, it is clear that for G.P.F. subscription Rs. 7300/- and for G.P.F. loan amount Rs. 5000/- were deducted, and it was obtained only after filing of the maintenance petition and that the gross salary of the petitioner herein is Rs. 25,000/-. Therefore, there is no illegality in the order passed by the learned Magistrate and also by the learned Principal Sessions Judge. Further more, the petitioner herein has already preferred a revision before the Sessions Court. As per Section 397(3) Cr.P.C., if an application already made to the Court of Sessions, no further application by the same person shall be entertained by the High Court. When there is a specific bar u/s 397(3) Cr.P.C, in order to circumvent the provision, the petitioner cannot be permitted to invoke Section 482 Cr.P.C. Hence, this petition is dismissed as not maintainable. Consequently, connected miscellaneous petition is also dismissed.