

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.18169 of 2015
and M.P.No.1 of 2015

T.Rafeeque

.. Petitioner

Vs

1.R.Safeera

2.Rashika

3.Mohammed Shammed

R2&R3 being minors rep by
their mother Mrs.Safeera
1st respondent herein

.. Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records pertaining to the impugned order in Cr.R.P.No.15/2014 dated 13.03.2015 passed by the II Additional Sessions Judge, at Pondicherry that uphold the order in M.C.No.7/2012 passed by the learned Judicial Magistrate, Mahe on 14.10.2014 and set aside the same.

For Petitioner :Mr.P.Vijendran

ORDER

This Criminal Original Petition has been filed praying to call for the records pertaining to the impugned order in Cr.R.P.No.15/2014 dated 13.03.2015 passed by the II Additional Sessions Judge, at Pondicherry that uphold the order in M.C.No.7/2012 passed by the learned Judicial Magistrate, Mahe on 14.10.14 and set aside the same.

2. Heard Mr. P.Vijendran the learned counsel for the petitioner.

3. It is seen that the first respondent herein is the wife of the petitioner. They got married on 22.01.1995 and have two children through their wedlock. Their matrimonial life ran into rough weather, on account of which, they got estranged.

4. The respondent filed proceedings under Section 125 Cr.P.C., for maintenance in M.C.No.7 of 2012, before the learned Judicial Magistrate, Mahe, against the petitioner herein and the learned Judicial Magistrate by order dated 14.10.2014 awarded maintenance

of Rs.4,000/- per month to the wife and Rs.3,000/- each to the children.

5. Aggrieved by the order dated 14.10.2014, the petitioner approached the Sessions Court, Pondicherry in Criminal Revision Petition No.15 of 2014 before the learned II Additional Sessions Judge, Pondicherry, which came to be dismissed on 13.03.2015, thereby the orders passed by the Trial Court was confirmed. Challenging the said order, the petitioner/husband is before this Court with the quash petition.

6. The revisional jurisdiction of the Sessions Court is concurrent with the revisional jurisdiction of the High Court and under Section 397(3) Cr.P.C., if a party elects to approach the Sessions Court, he will be precluded from approaching the High Court by way of second revision. Of course, the Hon'ble Supreme Court has held that in extra-ordinary cases, where there has been a gross injustice or violation of law, the aggrieved can approach the High Court under Section 482 Cr.P.C.,

7. In this case, the dispute is with regard to maintenance and there is no gross violation of any legal procedure, so as to warrant interference by this Court under Section 482 Cr.P.C.

8. Section 125 Cr.P.C., is a beneficial provision intended to take care of indigent women and children, who have been deserted by husband. This Court does not find any serious infirmity in the order passed by the Courts below for invoking Section 482 Cr.P.C.,

9. In the result, this quash petition is devoid of merits and hence this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ds

To

1.The II Additional Sessions Judge, Pondicherry.

2. The Judicial Magistrate, Mahe.

+ 1 cc to M/s. P. Vijendran, Advocate SR.38928

Cr1.OP No.18169 of 2015

RSK(CO)

En 10.07.15

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