

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 25-8-2015

Pronounced on : 28-8-2015

CORAM:

THE HON'BLE MR. JUSTICE P.N.PRAKASH

Criminal Original Petition No.20796 of 2015
M.P.Nos.1 and 2 of 2015

Sampath ... Petitioner

Vs.

Savithri ... Respondent

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure with a prayer to set aside the judgment dated 18.6.2015 made in CrI.R.C.No.15 of 2014 on the file of the Additional District and Sessions Judge, Krishnagiri, confirming the order dated 13.5.2014 made in M.C.No.14 of 2012 on the file of the Chief Judicial Magistrate, Krishnagiri, by allowing the Criminal Original Petition.

For Petitioner : Mr.S.Periasamy

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

For the sake of convenience, the parties herein will be referred to by their name.

2. Savithri got married to Sampath on 27.8.2006 and their marriage ran into rough weather and they got estranged. Savithri filed M.C.No.14 of 2012 under section 125 Cr.P.C. before the Chief Judicial Magistrate, Krishnagiri, and after enquiry, the learned Chief Judicial Magistrate by order dated 13.5.2014 awarded maintenance of Rs.4,000/- per month payable from the date of petition viz., 26.8.2012. Sampath did not make any payment, but preferred

Cr.R.C.No.15 of 2014 before the Sessions Judge. The learned Additional District and Sessions Judge, Krishnagiri, dismissed Cr.R.C.No.15 of 2014 on 18.6.2015 and confirmed the order passed by the trial Court, aggrieved by which Sampath is before this Court under Section 482 Cr.P.C. to quash the orders passed by the Courts below.

3. The revisional jurisdiction of the Sessions Court is concurrent with that of this Court and by virtue of Section 397(3) of Cr.P.C., if a person elects to approach the Sessions Court, invoking revisional jurisdiction, he is precluded from filing a second revision before this Court. However, in extra-ordinary cases, where there has been gross violation of legal provisions resulting in miscarriage of justice, the inherent jurisdiction of this Court under section 482 Cr.P.C, can be invoked.

4. Mr.S.Periasamy, learned Counsel appearing for Sampath submitted that a decree for restitution of conjugal rights in O.P.No.202 of 2012 has been passed on 11.6.2014 by the Sub Court, Dharmapuri, and therefore, Savithri will not be entitled to maintenance as she is refusing to rejoin Sampath.

5. This Court perused the decree in O.P.No.202 of 2012 and noted that Sampath has obtained an exparte decree against Savithri. That apart, both the Courts below have given a finding of fact that Savithri has been deserted by Sampath, and that, she has no means to maintain herself, and hence maintenance of a paltry sum of Rs.4,000/- per month has been awarded by the Courts below, and that, Sampath has not paid a penny to Savithri till date. Therefore, the case in hand is not the one, where great injustice has occasioned, warranting interference by this Court under section 482 Cr.P.C.

6. In fine, this Criminal Original Petition is devoid of merits and accordingly the same is dismissed. Connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

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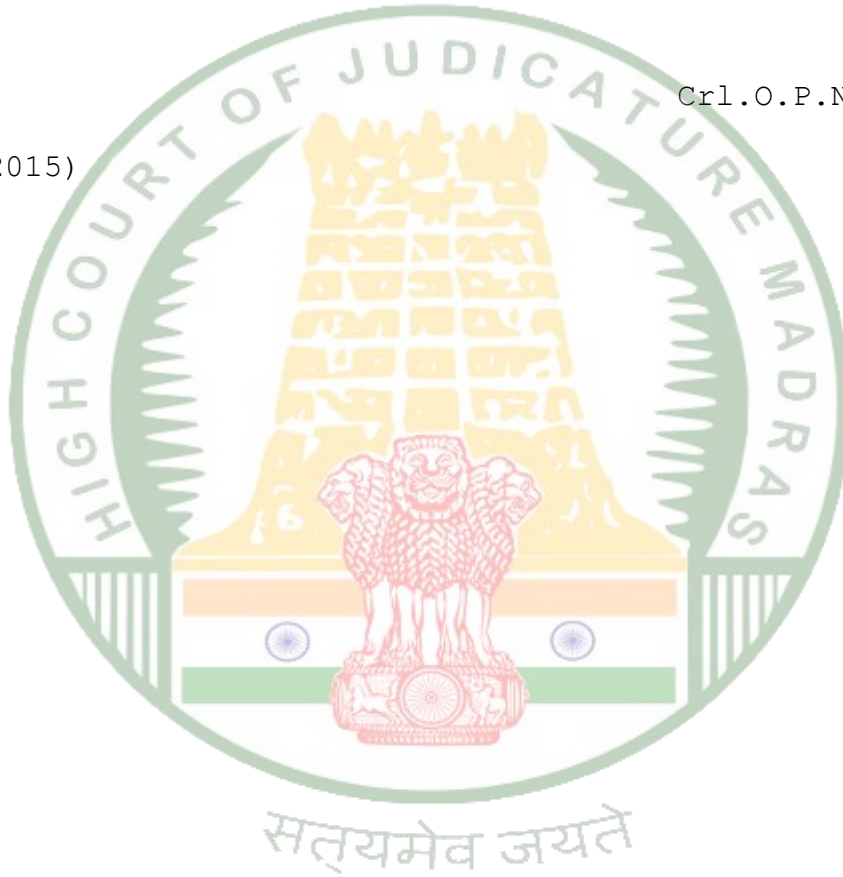
1.The Chief Judicial Magistrate,
Krishnagiri

2.The Additional District and Sessions Judge,
Krishnagiri

3.The Public Prosecutor,
High Court, Madras.

ALA(CO)
CA(15/09/2015)

Cr1.O.P.No.20796 of 2015



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