

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :21-8-2015

Pronounced on : 28-8-2015

CORAM:

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

Criminal Original Petition No.25177 of 2013
M.P.No.1 of 2013

Shajahan

... Petitioner

Vs.

Sabeena Begum

... Respondent

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure with a prayer to quash the proceedings of M.C.No.174 of 2013, which is pending before the II Family Court, Chennai.

For Petitioner : Mr.M.V.Venkateshan

For Respondent : Mr.K.Sridhar

O R D E R

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

2. Shajahan got married to Sabeena Begum on 10.5.1998 at Thirumakottai Village, Thiruvarur District, Tamil Nadu, and the marriage has been recorded in the Thirumakottai Pallivasal Nikkah register, in accordance with the Islamic law. After marriage they went to London and in the year 2004 serious differences arose between the spouses and they got estranged. It is the admitted fact that Shajahan acquired British permanent resident status in the year 2011.

Unable to withstand the torture and cruelty meted out to her, Sabeena Begum returned to India in April, 2012 and lived with her parents. She learnt that Shajahan married one Rashia Banu on 4.11.2012 and when this was questioned by Sabeena Begum, she was allegedly assaulted by the relatives of Shajahan. Since Shajahan had deserted Sabeena Begum, she initiated proceedings under section 125 Cr.P.C. for maintenance before the Family Court, Chennai in M.C.No.174 of 2013, challenging which Shajahan is before this Court.

3. Mr.M.V.Venkataseshan, learned counsel appearing for Shajahan submitted that the provisions of Section 125 Cr.P.C. is not applicable to Shajahan, as he is a British citizen.

4. This contention deserves outright rejection inasmuch as the Code of Criminal Procedure is not a substantive penal law and the provisions of section 125 Cr.P.C. cannot be made inapplicable to the parties in this case, inasmuch as both are Indian nationals and the marriage was solemnized in India and they were living in India for some time, and later on for employment purposes they went to London, where Shajahan was given permanent resident status in the year 2011.

5. Section 125 Cr.P.C. is a beneficial provision intended to provide succor to deserted wives, children and parents. Expression used in Section 126(1) Cr.P.C. is, "Proceedings under Section 125 may be taken against any person in any district", which means irrespective of his nationality, a proceeding under section 125 Cr.P.C. can be initiated in any district in India, if the conditions in (a) to (c) therein are satisfied.

6. According to Sabeena Begum, Shajahan had neglected to maintain her, and therefore she had returned to India and reside with her parents in Chennai. Hence, the petition filed by Sabeena Begum under Section 125 Cr.P.C. in the Family Court, Chennai, against her husband Shajahan is no doubt maintainable and Shajahan cannot escape liability on the ground that he is a permanent resident of United Kingdom.

7. Mr.M.V.Venkataseshan, learned counsel contended that Sabeena Begum is not living in Dhanalakshmi Colony, Vadapalani, Chennai, and that, the address given by her is only for the purpose of creating jurisdiction on the Family Court in Chennai. In the considered opinion of this Court, this is a disputed question of fact, which cannot be gone into in a petition under Section 482 Cr.P.C.

8. In the result, this Criminal Original Petition is devoid of merits and accordingly the same is dismissed. Connected M.P.No.1 of 2013 is also dismissed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vr

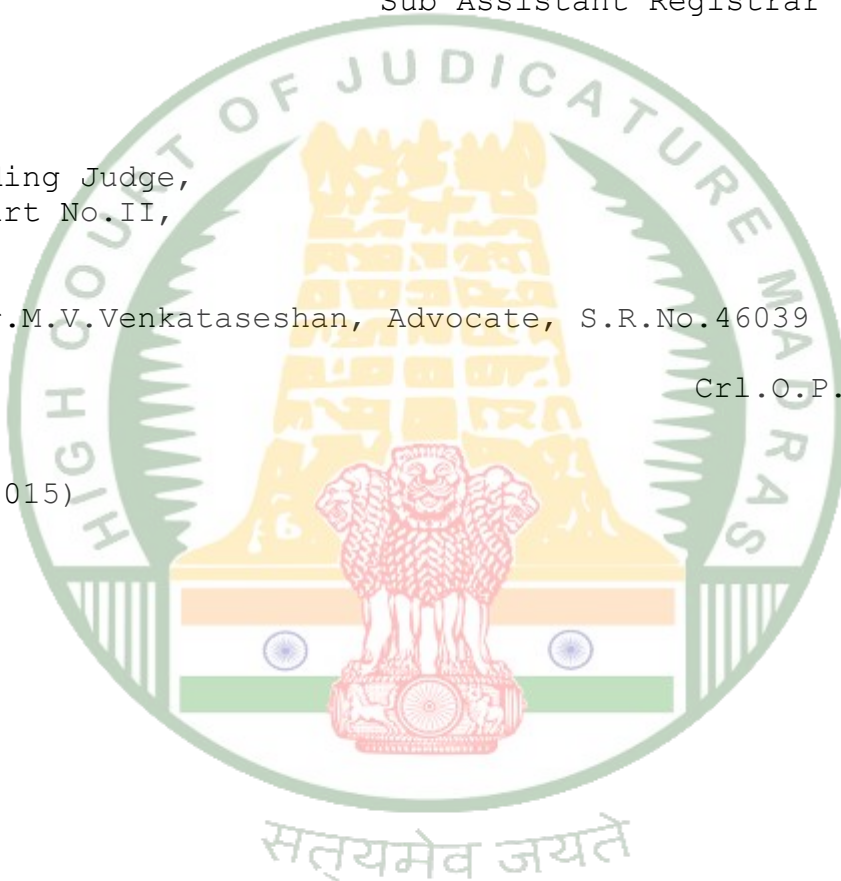
To

The Presiding Judge,
Family Court No.II,
Chennai.

+1cc to Mr.M.V.Venkateshan, Advocate, S.R.No.46039

Crl.O.P.No.25177 of 2013

KU(CO)
CA(10/09/2015)



WEB COPY