

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.13870 of 2016
and Crl.M.P.No.7084 of 2016

Shanmugasundaram

.. Petitioner

Vs

1.Minor Priyadharshan
rep by his mother
the second respondent

2.Shanthi

.. Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in CRP No.2/2014 on the file of III Addl.Sessions Judge, Vellore @ Tirupattur dated 10.12.2015, confirming the order in M.C.No.18/2011 of learned Judicial Magistrate No.3, Thirupattur dated 23.04.2013 and to set aside the same.

For Petitioner :Mr.R.K.Gandhi

O R D E R

This petition has been filed to call for the records in CRP No.2/2014 on the file of III Addl.Sessions Judge, Vellore @ Tirupattur dated 10.12.2015, confirming the order in M.C.No.18/2011 of learned Judicial Magistrate No.3, Thirupattur dated 23.04.2013 and to set aside the same.

2. Heard the learned counsel for the petitioner.

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

4. Shanmugasundaram got married to Shanthi on 24.01.2007 and they have one child Priyadharshan through the wedlock. Their marriage ran into rough weather, resulting in Shanthi filing a petition is M.C.No.18 of 2011 before the Judicial Magistrate-III, Tiruppathur u/s 125 Cr.P.C. claiming maintenance for herself and her child. The Judicial Magistrate-III after hearing both sides, by order dated 23.04.2013 awarded maintenance of Rs.7,000/- per month for the child and Rs.4,000/- per month for Shanthi. Aggrieved by the order of the Judicial Magistrate-III, Shanmugasundaram filed Crl.R.P.No.2/2014 before the Sessions Judge, which was heard by the III Additional District and Sessions Judge, Vellore at

Thirupathur and dismissed on 10.12.2015, confirming the order passed by the Court below. Challenging the orders passed by the Courts below, Shanmugasundaram is before this Court.

5. Under Section 397 (3) Cr.P.C. when once a person has elected to move the Sessions Court, he is precluded from filing a second revision before this Court. However, in extraordinary circumstances where grave injustice has occurred, it is open to this Court to entertain an application u/s 482 Cr.P.C.

6. In this case, this Court does not find any extraordinary circumstance for warranting interference, especially where the orders have been passed by the Courts below taking into consideration the various factors that are required to be borne in mind. That apart, the provisions of Section 125 Cr.P.C. is a beneficial legislation intended to provide financial support to deserted women and children. Learned counsel for the petitioner submitted that in the parallel proceedings before the Family Court, the Court has awarded maintenance of Rs.4,000/- each to Shanthi and Priyadharshan.

7. In the considered opinion of this Court, that cannot be a reason to interfere with the orders passed by the Courts below, because it is always open to the petitioner to produce the orders passed by the criminal Court for fixing of the maintenance by the Family Court and vice versa.

Accordingly, this petition is dismissed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

gms

To

1. III Addl.Sessions Judge, Vellore @ Tirupattur.
- 2.-do- Through The Principal Sessions Judge, Vellore.
- 3.Judicial Magistrate No.3, Thirupattur
- 4-do- Through The Judicial
- 5.The Public Prosecutor,High Court, Madras.

Cr1.OP No.13870 of 2016

RSY(CO)

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