

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.21143 of 2016

Elumalai

.. Petitioner

Vs

A.Mangathal

.. Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records and order dated 03.12.2015 in CRP.No.21/2014, on the file of the II Additional District Judge, Tindivanam, confirming the order dated 08.10.2013 in M.C.No.9 of 2012, on the file of the Judicial Magistrate No.1 and to set aside the same.

For Petitioner : Mr. J.Antony Jesus

O R D E R

This Criminal Original Petition has been filed to call for the records in CRP.No.21 of 2014 on the file of the II Additional District Judge, Tindivanam, confirming the order dated 08.10.2013 in M.C.No.9 of 2012, on the file of the Judicial Magistrate No.1 and to set aside the order dated 03.12.2015.

2. For the sake of convenience, the parties will be referred to by their name. Mangathal got married to Elumalai in the year 1970 and they have two children through their wedlock. Their matrimonial life ran into rough weather, resulting the spouses getting estranged.

3. Mangathal filed MC.No.9 of 2012 before the Judicial Magistrate No.1, Tindivanam under Section 125 Cr.P.C. against Elumalai. The learned Magistrate by order dated 08.10.2013, has directed Elumalai to pay a sum of Rs.1,000/- as maintenance per month. Aggrieved by the order, Elumalai preferred CRP.No.21 of 2014, which was dismissed by the learned II Additional District Judge, Tindivanam on 03.12.2015, confirming the order passed by the learned Judicial Magistrate, Tindivanam. Now, Elumalai is before this Court under Section 482 Cr.P.C.

4. The Sessions Court and the High Court have concurrent revisional jurisdiction and if a person elects to move the Sessions Court, he is precluded from filing a second revision petition before the High Court under Section 397(3) Cr.P.C. However, a petition under Section 482 Cr.P.C. is maintainable, when it is shown that grave illegality has been committed by the Courts below, resulting in undue prejudice to the party.

5. Mr.J.Antony Jesus, learned counsel appearing for Elumalai submitted that Elumalai had already settled some properties in favour of Mangathal as permanent alimony and therefore, he cannot be directed to pay further maintenance under Section 125 Cr.P.C. Both the Courts below have gone into this factual aspect and negatived the claim of Elumalai.

6. The Courts below have awarded a paltry maintenance of Rs.1,000/- in favour of Mangathal. This Court does not find any serious illegality in the orders passed by the Courts below warranting interference under Section 482 Cr.P.C.

In the result, the petition is devoid of merits and dismissed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

ds

To

1.The II Additional District Judge,
Tindivanam.

2.The Judicial Magistrate,
Tindivanam,

3. The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.J.Antony Jesus Advocate sr 52890

Cr1.OP.No.21143 of 2016

aa21/10/2016