

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.No.4719 of 2016
and
Crl.M.P.Nos.2489 & 2512 of 2016

M.D.Venkatachalam
S/o.Marimuthu

.. Petitioner/Respondent

Vs.

R.Poochendu
D/o.Raman

.. Respondent/Petitioner

Prayer:

Criminal Original Petition is filed under Section 407 of Cr.P.C., to withdraw the maintenance proceeding in M.C.No.15 of 2015 pending before the learned Judicial Magistrate, Kumbakonam and transfer the same to the file of the learned Judicial Magistrate, Erode.

For Petitioner : Mr.M.Guruprasad

For Respondent : Mr.E.C.Ramesh

O R D E R

The petitioner has come up with the present Criminal Original Petition seeking to withdraw the maintenance proceeding in M.C.No.15 of 2015 pending on the file of the learned Judicial Magistrate, Kumbakonam and transfer the same to the file of the learned Judicial Magistrate, Erode.

2. The learned counsel appearing for the petitioner would submit that the petitioner is working in the Railway department as a Guard and hence, the petitioner finds it difficult to obtain leave and attend the proceedings before the learned Judicial Magistrate, Kumbakonam. Hence, the petitioner seeks to transfer the proceedings to Erode, where the petitioner is working.

3. Resisting the same, the learned counsel appearing for the respondent/wife would submit that the respondent is residing within the jurisdiction of Judicial Magistrate, Kumbakonam and she has no sufficient means to travel to Erode to attend the proceedings along with her young child. Hence, the learned counsel for the respondent prayed for dismissal of the petition.

4. Considered the rival submissions made by both sides and perused the typed set of papers.

5. It is an admitted fact that the marriage between the petitioner and the respondent was performed on 11.09.2008 at Kumbakonam and out of wedlock with the petitioner, the respondent had also given birth to a female child. Now, the respondent/wife has filed the petition for maintenance under Section 125 of the Cr.P.C in M.C.No.15 of 2015 on the file of the learned Judicial Magistrate, Kumbakonam. Further, as stated by the learned counsel for the respondent, the respondent is unemployed and she has no means to travel to Erode to attend the proceedings along with a young child. Further, the respondent being a young lady cannot travel alone and she needs an assistance of another person to travel to Erode.

6. Considering all the above aspects, I am of the considered view that it is not a fit case to transfer the proceedings in M.C.No.15 of 2015 from the file of the learned Judicial Magistrate, Kumbakonam to the file of the learned Judicial Magistrate, Erode. Further, since the application in M.C.No.15 of 2015 has been filed in the month of June 2015 and the counter was also filed, the learned Judicial Magistrate, Kumbakonam is directed to dispose of the matter within a period of two months from the date of receipt of a copy of this order.

7. At this juncture, the learned counsel for the petitioner prays to dispense with the personal appearance of the petitioner before the Trial Court. Considering the same, the learned Judicial Magistrate, Kumbakonam is directed to consider dispensing with the personal appearance of the petitioner, on filing of an appropriate application. Further, both the parties are directed to co-operate for the earlier disposal of the proceeding.

8. The Criminal Original Petition is disposed of with the above directions. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

pgp

To

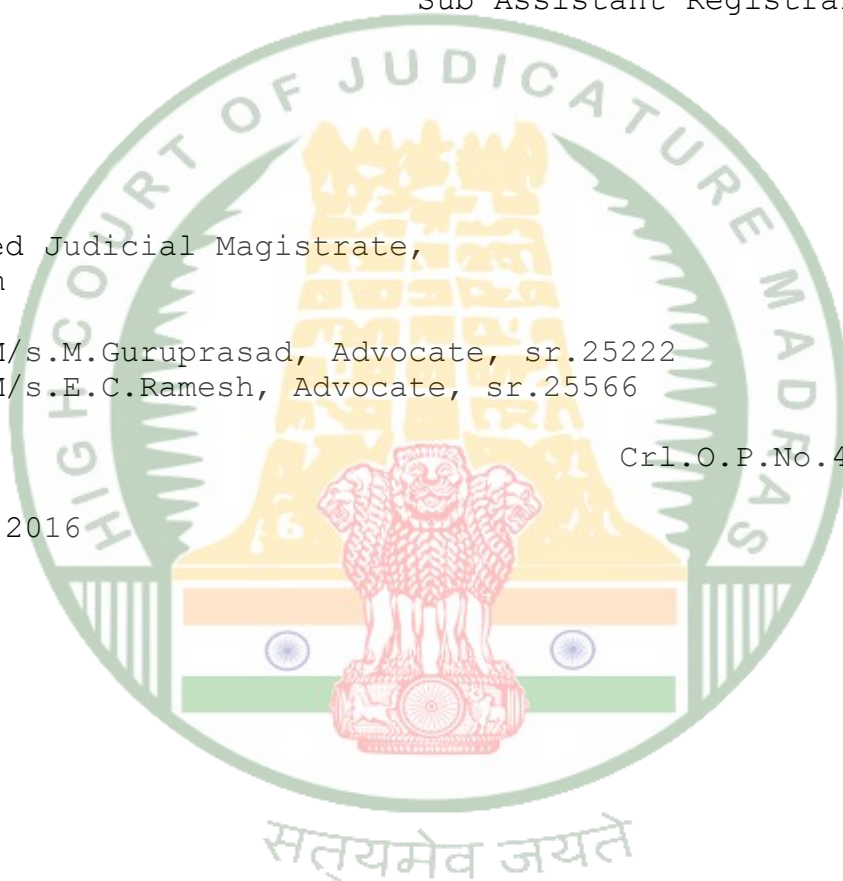
The learned Judicial Magistrate,
Kumbakonam

+1 cc to M/s.M.Guruprasad, Advocate, sr.25222

+1 cc to M/s.E.C.Ramesh, Advocate, sr.25566

CrI.O.P.No.4719 of 2016

cnr co
kra 29.04.2016



WEB COPY