



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2016

CORAM

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CrI.O.P.(MD) No.10089 of 2015

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N.Yuvarajan

... Petitioner/Petitioner/Respondent

-vs-

Bagavathy Muthu

... Respondent/Respondent/Petitioner

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records pertaining to the order dated 17.02.2015 passed by the Additional District Court, Dindigul in Cr.R.P.No.9 of 2014 by confirming the order passed by the Chief Judicial Magistrate in M.C.No.43 of 2013 dated 30.12.2013 and set aside the same.

For Petitioner : Mr.A.Chandra Kumar

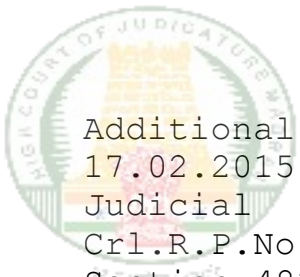
For Respondent: Mrs.M.Kamalini

O R D E R

This petition has been filed to call for the records pertaining to the order dated 17.02.2015 passed by the Additional District Court, Dindigul in Cr.R.P.No.9 of 2014 by confirming the order passed by the Chief Judicial Magistrate in M.C.No.43 of 2013 dated 30.12.2013 and set aside the same.

2. Heard the learned counsel on either side. Though the miscellaneous petition, which has been filed by the respondent herein to vacate the stay, granted by this Court on 02.07.2015, is listed today for hearing, by consent of both parties, the main criminal original petition itself is taken up for final disposal.

3. It is seen that Bhagavathy Muthu / respondent herein is the wife of Yuvarajan / petitioner herein and they got married on 31.08.2011. Their marriage ran into rough weather and they got estranged. Bhagavathy Muthu filed M.C.No.43 of 2013 before the learned Chief Judicial Magistrate, Dindigul under Section 125 Cr.P.C. against Yuvarajan, claiming maintenance. Learned Chief Judicial Magistrate, Dindigul passed final orders in M.C.No.43 of 2013 on 30.12.2013, directing Yuvarajan to pay a sum of Rs.2,000/- per month as maintenance from 29.05.2013 (the date on which the petition was filed). Aggrieved by the order passed by the learned Chief Judicial Magistrate, Dindigul, Yuvarajan filed revision in Cr.R.P.No.9 of 2014 before the



Additional District Court, Dindigul, which came to be dismissed on 17.02.2015, thereby confirming the order passed by learned Chief Judicial Magistrate, Dindigul. Aggrieved by the order in CrI.R.P.No.9 of 2014, Yuvarajan has approached this Court under Section 482 Cr.P.C.

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4. Under Section 397(1) Cr.P.C., Revisional jurisdiction of the Sessions Court is concurrent with that of this Court and under Section 397(3) Cr.P.C., if a person elects to approach the Sessions Court, he is precluded from approaching this Court.

5. Learned counsel for the petitioner submitted that the present petition has been filed under Section 482 Cr.P.C. on the ground that Bhagavathy Muthu has obtained an order of maintenance in the domestic violence proceedings, which is double jeopardy.

6. Admittedly, Bhagavathy Muthu has filed DV Act proceedings in Cr.M.P.No.6913 of 2013, in which learned Judicial Magistrate No.2, Dindigul has passed an interim order, directing Yuvarajan to pay Rs.1,500/- per month as maintenance. In the opinion of this Court in the light of Section 36 of Domestic Violence Act, the question of double jeopardy will not arise. It is always open to Yuvarajan to approach the learned Judicial Magistrate No.2, Dindigul and ask for alteration of interim maintenance amount by bringing it to his notice that he has been paying a sum of Rs.2,000/- per month pursuant to the order under Section 125 Cr.P.C. The fact remains that Yuvarajan is not paying any money to Bhagavathy Muthu, but has been making her run from pillar to post.

7. With the above observation, this Criminal Original Petition is dismissed as devoid of merits and the order passed by the Court below in CrI.R.P.No.9 of 2014 stands confirmed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(C.O)I/C

/True Copy/

Sub -Assistant Registrar

To:

1. The Additional District Court, Dindigul.
2. The Chief Judicial Magistrate, Dindigul.
3. The Judicial Magistrate No.2, Dindigul.
- +One cc to Mr.A.Chandra Kumar, Advocate, SR.No.9047
- +One cc to M/s.M.Kamalini, Advocate, SR.No.9006

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