

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

CRL.O.P.No.9710 of 2011 and
M.P.No.1 of 2011

Purushothaman

... Petitioner

Vs

1.Sulochana
2.Devi

.... Respondent

PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure against the Judgment dated 25.02.2011 made in C.R.P.No.7 of 2010 on the file of the Additional District and Sessions Judge, Fast Track Court No.II, Tindivanam in confirming the Judgment dated 18.06.2010 made in M.C.No.8 of 2009 on the file of the Court of the Judicial Magistrate No.II, Tindivanam.

For Petitioner : Mr.S.Vadivel Murugan

For Respondents : No Appearance

ORDER

This criminal original petition is preferred by the petitioner against the order made in C.R.P.No.7 of 2010 dated 25.2.2011 passed by the learned Additional District and Sessions Judge, Fast Track Court No.II, Tindivanam in confirming the judgment dated 18.6.2010 made in M.C.No.8 of 2009 on the file of the court of the learned Judicial Magistrate No.II, Tindivanam.

2.I heard Mr.S.Vadivel Murugan, learned counsel appearing for the petitioner and perused the entire materials available on record. No representation on behalf of the respondents.

3.Brief case of the petitioner:

The facts of the case is that the petitioner and the 1st respondent were married 25 years back and during her marriage 4 sovereigns of gold and articles worth Rs.60,000/- were given to the petitioner. Four daughters and one son were born, out of whom three daughters are married and the 2nd respondent is yet to be married. About 10 years before, the petitioner went for a second wife and is living separately with her and a male child is born to them. The marriage of three daughters were performed by the 1st respondent herself for which there was no help from the petitioner. Petitioner failed to take care of the respondents and he is now living at Cendure along with the 2nd respondent and her son. The petitioner is a Government employee earning Rs.8000/- per month and is also in possession of property worth Rs.1 Lakh of income every year. The 2nd respondent is unmarried and the duty of the petitioner to settle her daughter's life. But the petitioner is deviated from his duty in maintaining his wife and the grown up daughter. Hence the 1st respondent filed this maintenance petition under section 125 of Cr.P.C. The learned trial court after hearing both parties, was pleased to pass an order maintenance totaling a sum of Rs.7500/- for both the respondents. Aggrieved over the same, the petitioner/accused preferred criminal revision in CrI.R.C.No.7 of 2010. The learned lower appellate court after hearing of both parties dismissed the petition and confirm the order of the trial court. Aggrieved over the same, this quash petition is filed.

4.The learned counsel for the petitioner submits that the orders of the courts below in directing the petitioner to pay Rs.2,500/- as maintenance to each respondent in total Rs.5,000/- is against law and facts and circumstances of the case.

5.The learned counsel for the petitioner submits that the court below has ordered the payment of maintenance without proper evidence on the side of the petitioner.

6.The learned counsel for the petitioner submits that the trial court not considered any of the evidence on record and has not discussed the same while rendering findings on the other hand has simply stated that from the evidence it has come to the conclusion without discussing the nature of the witness.

7.The learned counsel for the petitioner submits that the respondent not produced any documentary evidence that the petitioner is earning Rs.8,000/- as salary and Rs.10,000/- from agricultural income.

8.The learned counsel for the petitioner submits that the courts below ought to have rejected the case of the respondents herein as they have sufficient means to maintain themselves. Therefore they are not entitled to seek for payment of maintenance.

9.The learned counsel for the petitioner submits that the courts below ought to have seen that the petitioner herein is providing house for the respondents residence. Therefore payment of Rs.2,500/- each in total Rs.5,000/- is excessive and causes undue hardship to the petitioner.

10.Admittedly, the trial Court has ordered by directing the petitioner to pay a sum of Rs.2,500/- to each petitioner is not excessive. Being the husband, the petitioner ought to have maintain the respondents, since they are the wife and unmarried daughter. Therefore, I am not inclined to interfere with the order passed by the trial Court and the same is liable to be dismissed.

11.In the result, this criminal original petition is dismissed and order made in Crl.R.P.No.7 of 2010 dated 25.2.2011 passed by the learned Additional District and Sessions Judge, Fast Track Court No.II, Tindivanam and the orders passed by the trial court in M.C.No. M.C.No.8 of 2009 on the file of the court of the learned Judicial Magistrate No.II, Tindivanam is confirmed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

1.The Additional District and Sessions Judge,
Fast Track Court No.II, Tindivanam.

2.The Judicial Magistrate No.II,
Tindivanam.

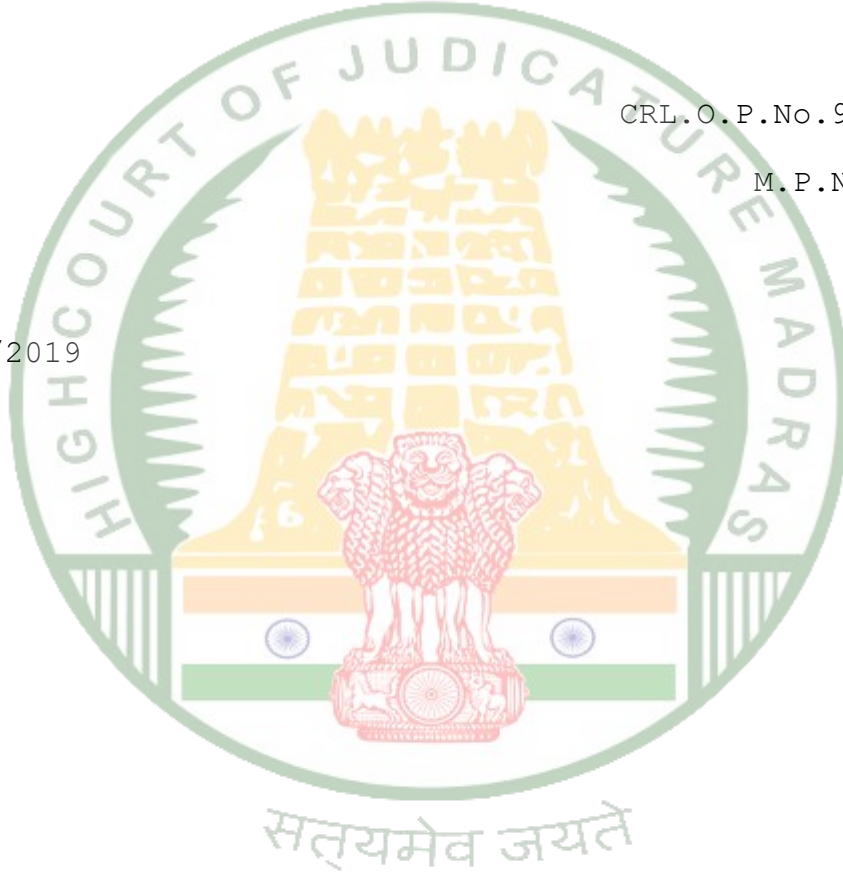
3.The Judicial Magistrate-I,
Tindivanam.

4.The Chief Judicial Magistrate,
Villupuram.

5.The Public Prosecutor,
Madras.

CRL.O.P.No.9710 of 2011
and
M.P.No.1 of 2011

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