

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.02.2017

CORAM

THE HONOURABLE MR. JUSTICE N.AUTHINATHAN

Crl.O.P. No.18469 of 2010
& M.P.Nos.1 & 2 of 2010

S.Sreedharan ... Petitioner

versus

B.Nagalakshmi ... Respondent

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C. to call for the entire records of the proceedings in M.C.No.1 of 2009 on the file of the learned Judicial Magistrate, Katpadi, Vellore District and quash the same.

For Petitioner : Mr.K.A.Ravindran

For Respondent : No Appearance

O R D E R

The petitioner is the husband of the respondent. The respondent filed a petition under Section 125 (1)(a) Cr.P.C. in M.C.No.1 of 2009 on the file of the learned Judicial Magistrate, Katpadi. She prayed for an order, directing the petitioner herein to pay maintenance at the rate of Rs.5,000/- per month.

2.The petitioner entered appearance in the said case and filed a counter. Pending disposal of the said case, the present Criminal Original Petition has been filed by the petitioner to quash the proceedings.

3.Though the respondent served and her name is printed in the cause list, she has not turned up and there was no representation on her behalf.

4.Heard the learned counsel appearing for the petitioner and perused the records.

5.The learned counsel appearing for the petitioner would submit that the respondent / wife extracted money from the petitioner / husband to perform the marriage of their daughter,

that he executed a sale deed in favour of wife, that he has no means to pay maintenance, that the respondent has deserted the petitioner in the year 1994. However, he has been paying maintenance since 1994 and that, therefore the proceedings are liable to be quashed.

6.I have carefully perused the records. In the petition filed by the respondent for maintenance, she has averred that she is unable to maintain herself and she is under the care of her aged parents. She has also averred that the petitioner has sufficient means to pay maintenance to her. According to her, the petitioner owns immovable properties also. She has alleged that though she is willing to live with the petitioner, the petitioner is not willing to take her back.

7.A careful reading of the complaint would show that the petitioner has made out a case for maintenance at this stage. The defense of the accused cannot be taken into account for exercise of the jurisdiction under Section 482 Cr.P.C.

8.The grounds taken by the petitioner that he has no means, that he has executed a sale deed in favour of wife and that, the respondent has not made out a case for maintenance can be raised before the trial Court. As the complaint of the respondent makes out a case for maintenance, I am not inclined to quash the proceedings as prayed for by the petitioner. The Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed. The outcome of the petition shall not have any bearing on a decision to be taken by the learned Judicial Magistrate, Katpadi, Vellore District, after completion of trial.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sri

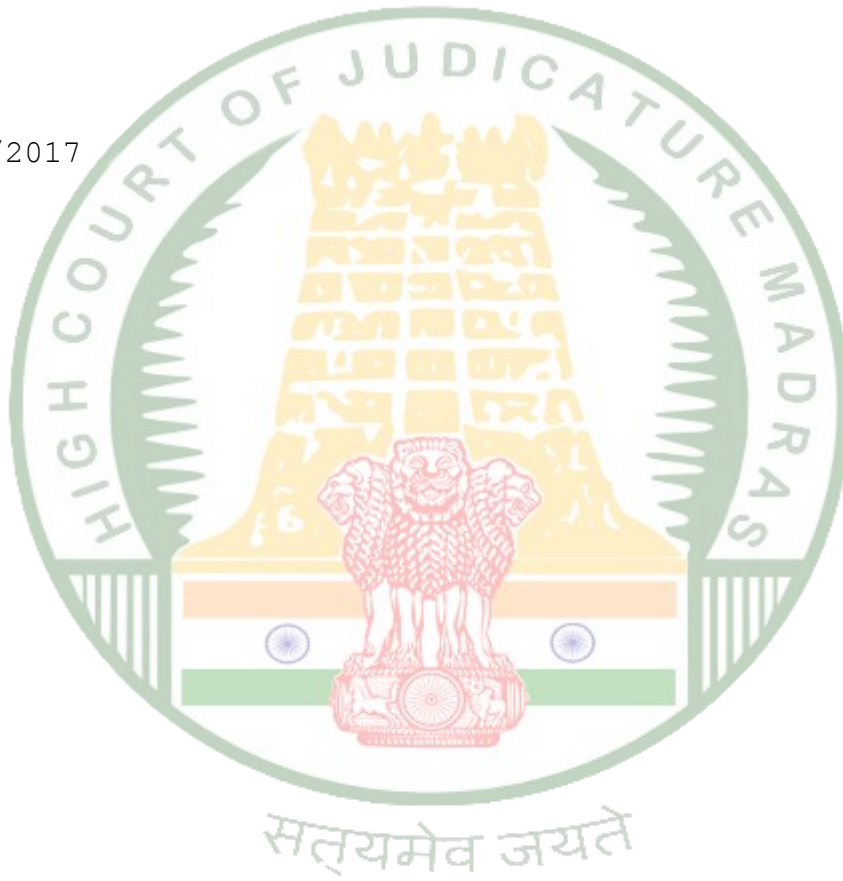
To

1.The Judicial Magistrate,
Katpadi, Vellore District.

2.The Public Prosecutor,
High Court, Madras.

Cr1.O.P. No.18469 of 2010

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