

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 20.11.2017****CORAM****THE HON'BLE MR.JUSTICE S.S.SUNDAR****CrI.O.P.(MD) No. 13616 of 2016****and****CrI.M.P.(MD) Nos.6358 and 6359 of 2016**

Anushya

... Petitioner

-Vs-

Ravikumar

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to proceedings in M.C.No.1 of 2016 on the file of the Judicial Magistrate No.1 Sivagangai and quash the same in so far as it relates to the petitioner.

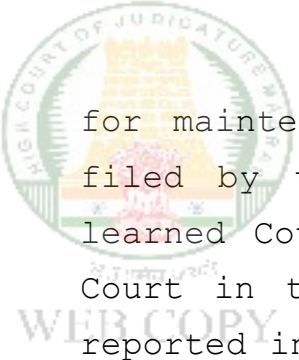
For Petitioner :Mr.A.Sivasubramanian
For Respondent :Mr.Vinoth Kumar

ORDER

The Criminal Original Petition has been filed to call for the records pertaining to proceedings in M.C.No.1 of 2016 on the file of the Judicial Magistrate No.1, Sivagangai and to quash the same.

2.The petitioner is the wife of the respondent. Though, the petitioner has filed a petition for divorce in M.C.No.4 of 2015 under Section 125 Cr.P.C., it appears that the husband also has filed a petition in M.C.No.1 of 2016 for maintenance as against the petitioner / wife.

3.The learned counsel for the petitioner submitted that Section 125 Cr.P.C., makes it clear that only the wife can file a petition



for maintenance under Section 125 Cr.P.C., and that the petition filed by the husband for maintenance is not maintainable. The learned Counsel for the petitioner relied upon a judgment of this Court in the case of B.Clement Vs.Mcthel Thanga Annam @ P.Mcthel reported in CDJ 2012 MHC 2892. In the judgment, the learned Single Judge of this Court has held that Section 125 Cr.P.C., for maintenance cannot be invoked by the husband against the wife. Hence, this Court is also confirm the petition that a petition for maintenance filed by the husband under Section 125 Cr.P.C., is not maintainable. However, the husband also can maintain a petition for maintenance upon proving all other requirements under Section 25 of Hindu Adoptions and Maintenance Act, 1956.

4.With the above observation the Criminal Original Petition is allowed and the proceedings in M.C.No.1 of 2016 on the file of the Judicial Magistrate No.1, Sivagangai is quashed. However, liberty is given to the respondent to seek remedy for maintenance under Section 25 of Hindu Adoptions and Maintenance Act, 1956. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (Crl.Side)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate Court No.1,
Sivagangai.

+1cc to M/S.A.SIVASUBRAMANIAN, Advocate SR.No.88803.
+1cc to M/S.B.VINOTHKUMAR, Advocate SR.No.88724.

Crl.O.P.(MD) No. 13616 of 2016
and
Crl.M.P.(MD) Nos.6358 and 6359 of 2016
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