



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 21.03.2017

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH.J.,

CRL.O.P. (MD) No.3186 of 2017

&

CRL MP (MD) No.2415 of 2017

Ayyadurai,
S/o.Ramu,
Field Assistant,
TANGEDCO,
No.8, Vanjinathan Street,
South Jegananthapuram,
P.C.Patty, Theni,
Theni District.

...Petitioner

Vs

1. Jeyakodi,
W/o.Ayyadurai,
E.Pudupatti,
Thottappanayakanoor Village,
Usilampatty, Madurai District.

2. Minor. Manimegalai,
D/o. Ayyadurai, E.Pudupatti,
Thottappanayakanoor Village,
Usilampatty,
Madurai District.

3. Minor. Divyadharshini,
D/o. Ayyadurai, E.Pudupatti,
Thottappanayakanoor Village,
Usilampatty,
Madurai District.

...Respondents

Prayer: Criminal Petition filed under Article 482 of the Constitution of India, praying to call for records pertaining to the Impugned Petition Cr.M.P.No. 6047 of 2016 in M.C.No. 7/2011 pending on the file of the District Munsif cum Judicial Magistrate, Usilampatty., and to quash the same.

**ORDER**

Jeyakodi filed M.C.No.7/2011 before the District Munsif cum Judicial Magistrate No.1, Usilampatti under section 125 Cr.P.C. against her husband Ayyadurai claiming maintenance, in which, final orders were passed on 02.02.2012 directing Ayyadurai to pay Rs.1,500/- per month each to Jeyakodi and her two minor children. Thereafter, Jeyakodi has filed Cr.M.P.No. 6047 of 2016 under section 128 Cr.P.C. in M.C.No. 7 of 2011 contending that Ayyadurai has not paid the maintenance amount from 24/12/2015 to 15/12/2016, challenging which, Ayyadurai is before this Court.

2. Heard the Learned Counsel for the petitioner/Ayyadurai.

3. Learned counsel for the petitioner submitted that after the maintenance order was passed, Jeyakodi and Ayyadurai lived together and Ayyadurai was taking care of Jeyakodi and two children. In this regard, the learned counsel placed strong reliance upon the compromise deed executed between Jeyakodi and Ayyadurai on 13.04.2016 and also a letter that is said to have been sent by Jeyakodi on 25.07.2014 to TANGEDCO, where Ayyadurai was employed, wherein Jeyakodi has stated that she is living with Ayyadurai and that she is withdrawing the maintenance proceeding.

4. Therefore, the learned counsel contented that the present petition under Cr.M.P.No. 6047 of 2016 is an abuse of process of law.

5. This Court gave its anxious consideration to the submissions made by the learned counsel for the petitioner.

6. In a petition under section 482 of Cr.PC., this Court cannot go into the disputed question of facts and give a finding that Jeyakodi and Ayyadurai started living together after the final orders in M.C.No.7/2011 was passed on 02.02.2012. Hence, this petition is dismissed with a direction to the District Munsif cum Judicial Magistrate, Usilampatti, to conduct an enquiry in Cr.M.P.No. 6047/2016 before passing final orders thereon. Liberty is given to Ayyadurai to participate in the enquiry and place materials before the trial Court to show that he was taking care of Jeyakodi and two children. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar



To
The District Munsif cum Judicial Magistrate,
Usilampatti.

+1cc to Mr.M.A.M.Raja, Advocate Sr.No.17565

TSG/RR

VB/JC/06.04.2017/3p/3c

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