



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2017

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THE HONOURABLE MR.JUSTICE P.N.PRAKASHCrI.O.P.(MD) No.7870 of 2017 &
CrI.M.P.(MD).Nos.5355 and 5356 of 2017

M.Ramesh : Petitioner/Respondent

-vs-

1.Vanathi
2.Minor R.Jaswanth
Minor rep. by her
mother natural guardian Vanathi : Respondents/Petitioners
(Crime No.160 of 2017)

Prayer: Petition is filed under Section 482 of Code of Criminal Procedure, to call for the records in M.C.No.8 of 2015 on the file of the Judicial Magistrate Court, Uthamapalayam, Theni District and quash the same.

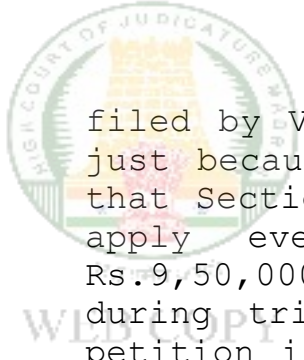
For Petitioner : Mr.N.Madhava Govindan

O R D E R

Ramesh got married to Vanathi on 25.10.2006 and they have one child by name Jaswanth. Their marriage run into a rough weather, resulting in Ramesh filing HMOP No.62 of 2014, before the Sub Court, Uthamapalayam, for divorce. HMOP No.62 of 2015 was allowed on 28.04.2016 and the marriage was dissolved. Thereafter, Vanathi has filed M.C.No.8 of 2015 before the learned Judicial Magistrate, Uthamapalayam under Section 125 Cr.P.C. claiming maintenance for herself and her minor son Jaswanth. Challenging the maintenance proceedings Ramesh is before this Court.

2. Heard Mr.N.Madhava Govindan, learned counsel for the petitioner, who submitted that Ramesh and Vanathi had entered into a divorce muchilika on 04.07.2015 in a Fifty Rupees Non Judicial Stamp paper, under which Ramesh had already paid Rs.9,50,000/- as full and final settlement and therefore, her claim for maintenance is not maintainable. He also submitted that the marriage has been dissolved by the decree in HMOP NO.62 of 2015 on 28.04.2016.

3. This Court gave its anxious considerations to the ~~senior counsel for the respondent~~ by Mr.N.Madhava Govindan. As regards the divorce muchilika dated 04.07.2015, the same is not valid in the eye of law. It is seen that the petition under Section 125 Cr.P.C. was



filed by Vanathi in the year 2015 itself. In such circumstances, just because their marriage has been dissolved, it does not mean that Section 125 Cr.P.C. will not apply. Section 125 Cr.P.C. will apply even to a divorced wife. As regards payment of Rs.9,50,000/-, it is for the Trial Court to appreciate the same during trial in M.C.No.8 of 2015. In such circumstances, this petition is dismissed with liberty to the petitioner to raise all his defence before the Trial Court. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To:

The Judicial Magistrate,
Uthamapalayam.

+One cc to Mr.N.Madhava Govindan, Advocate, SR.No.62118

Jikr
RL/3C/2P/KP/SAR2/10/7/2017

Order made in

Cr1.O.P.(MD) No.7870 of 2017

27.06.2017