



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2017

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.123 of 2013
and
M.P.(MD)No. 1 of 2013

Swaminathan ... Petitioner

Vs.

Valarmathi ... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to M.C.No.9 of 2011 on the file of the learned Judicial Magistrate Court No.I, Sivagangai and quash the same.

For Petitioner : Mr.T.Kumar
For Respondent : No appearance

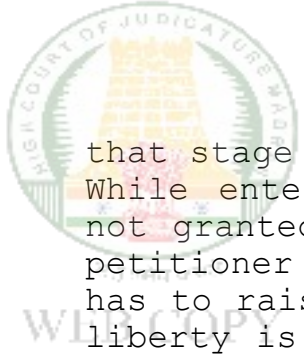
O R D E R

This Criminal Original Petition has been filed to quash the proceedings in M.C.No.9 of 2011 on the file of the learned Judicial Magistrate Court No.I, Sivagangai District.

2.The case of the petitioner is that the petitioner and the respondent was solemnized in the year 10.03.2006. Thereafter, the respondent filed a petition under Section 125 Cr.P.C. before the learned Judicial Magistrate, claiming Rs.20,000/- per month as maintenance.

3. The learned counsel for the petitioner would submit that the petitioner already married one Sudha, out of which they were blessed with one male child namely Hariharan. It is submitted that before the marriage with the respondent, the petitioner has married one Sudha and got divorce by filing H.M.O.P.No.41 of 2002 on 02.03.2005 before the Sub Court, Sivagangai. He would further submit that the respondent is working as a Junior Assistant at District Police Office, Sivagangai and drawing a fabulous salary from the Government and therefore, the question of granting maintenance to her does not arise.

4.On perusal of the grounds, the said maintenance case was posted on 03.01.2013 for cross-examination of the petitioner. At



that stage the petitioner filed a petition under Section 482 Cr.P.C. While entertaining the Criminal Original Petition, this Court has not granted interim order in favour of the petitioner. Though the petitioner raised several grounds before this Court, the petitioner has to raise those grounds only before the lower Court. Therefore, liberty is granted to the petitioner to lead evidence on behalf of him in order to disprove the claim made by the respondent by availing opportunity before the lower Court.

5. In view of the above, I am not inclined to interfere with the order passed by the Lower Court in M.C.No.9 of 2011 on the file of the Judicial Magistrate No.I, Sivagangai. Accordingly, the Criminal Original Petition is dismissed, giving liberty to the petitioner to workout his remedy in the manner known to law before the lower Court. Considering the pendency of this case before this Court for the past six years, I am inclined to direct the lower Court to complete the trial within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate No.I,
Sivagangai.

+1cc to Mr.T.KUMAR Advocate in SR. No. 92511

RMI

JS/SV.MMS/SAR.2/03.01.2018/2P-3C

Cr1.O.P. (MD) No.123 of 2013
and
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