

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.7784 of 2018

1.P.Dhivya
2.Minor P.Rakshitha
rep.by mother and natural guardian
P.Dhivya ..Petitioners

vs.

C.Parthiban ...Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. to direct the Family Court, Chengalpattu to number the petition filed in Crl.M.P.No.....of 2016 in M.C.No.8 of 2015 with a prayer to issue distraint warrant to attach the property of the respondent and dispose of the petition in accordance with law.

For petitioners Ms.Meenakshi

For Respondent Mr.S.K.Chandrasekar

ORDER

This Criminal Original Petition has been filed to direct the Family Court, Chengalpattu to number the criminal miscellaneous petition filed in M.C.No.8 of 2015 with a prayer to issue distraint warrant to attach the property of the respondent and dispose of the petition in accordance with law.

2. For the sake of convenience, the parties will be referred to by their name.

3. Dhivya initiated proceedings under Section 125 Cr.P.C. and the same was dealt with by the Family Court, Chengalpattu in M.C.No.8 of 2015, in which, final orders were passed on 01.12.2015 directing Parthiban to pay Rs.5,000/- per month as maintenance. Since Parthiban did not make the payment, Dhivya filed a petition under Section 125(3) Cr.P.C. r/w 421 and 422 Cr.P.C. for issuance of a warrant of attachment of the autorickshaw owned by Parthiban.

4. It is the grievance of Dhivya that, the Family Court, Chengalpattu returned the petition without numbering, on the ground that the autorickshaw bears registration number of Chennai and therefore, the petition before the Family Court at Chengalpattu is not maintainable. Under such circumstances, Dhivya is before this Court.

5. Heard the learned counsel for Dhivya and the learned counsel for Parthiban.

6. The fact remains that the Family Court at Chengalpattu had passed the order of maintenance and under Section 125 (3) Cr.P.C., the order is enforceable by issuance of a warrant for levying the amount due in the manner provided for levying fine.

7. Sections 421 and 422 Cr.P.C. speak about the manner in which a fine can be levied. Section 422 Cr.P.C. reads as under:

"422. Effect of such warrant.--A warrant issued under clause (a) of sub-section (1) of section 421 by any Court may be executed within the local jurisdiction of such Court, and it shall authorise the attachment and sale of any such property outside such jurisdiction, when it is endorsed by the District Magistrate within whose local jurisdiction such property is found."

8. Thus, it is clear that the Family Court can issue a warrant of attachment and send the same to the District Collector, Chennai for his endorsement and thereafter, the same can be executed in Chennai. When that being the law, the Family Court, Chengalpattu, ought not to have made a hapless woman run from pillar to post. Hence, this Court directs the Family Court, Chengalpattu, to entertain the petition filed by the petitioner under Section 125(3) Cr.P.C. r/w 421 and 422 Cr.P.C., number the same and pass orders in accordance with law.

With the above direction, this petition is closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

gms

To

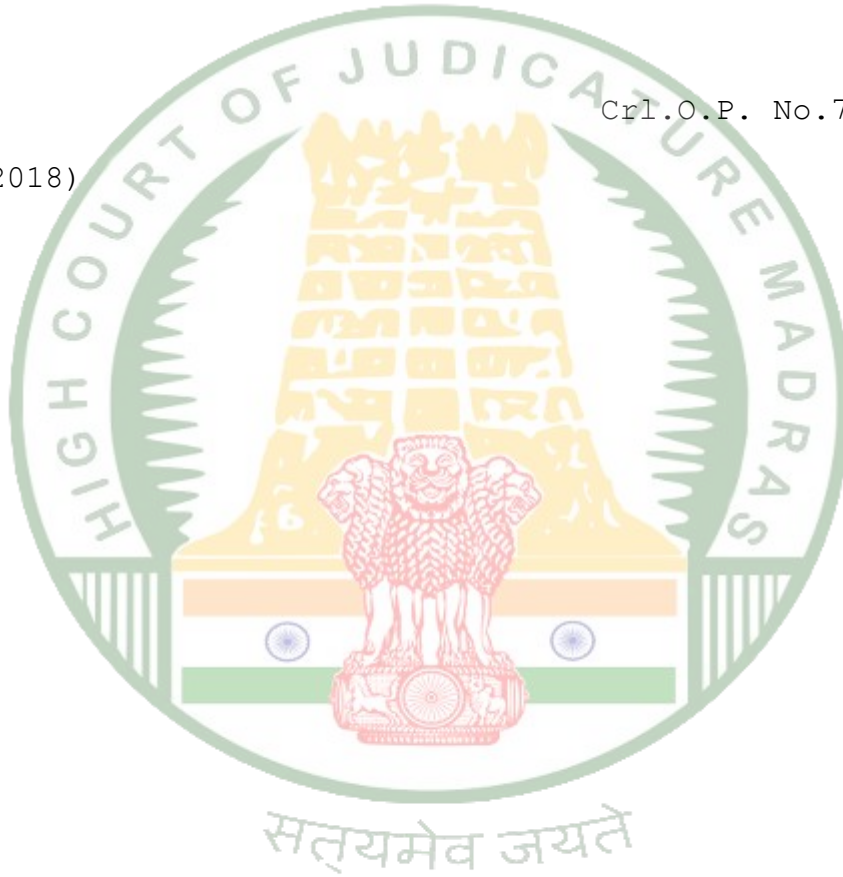
1. The Judge
Family Court,
Chengalpattu.

2.The Public Prosecutor
High Court, Chennai.

+1 CC to Mr.S.K. Chandrakumar, Advocate sr 39246.

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SP(02/07/2018)



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