

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.11628 of 2018

and

Crl.M.P.No.6067 of 2018

Ayyanarappan ... Petitioner
Vs
Revathi ... Respondent

Prayer:- Criminal Original Petition filed under Section 407 of the Code of Criminal Procedure to withdraw M.C.No.16 of 2016 from the file of the Family Court, Thiruvallur and transfer the same to the file of the Sub Court, Poonamallee.

For Petitioner :Mr.C.Shyaamala

For Respondent :Ms.P.Kritika Kamal,
Government Advocate (Crl.Side)

ORDER

This petition has been filed to withdraw M.C.No.16 of 2016 from the file of the Family Court, Thiruvallur and to transfer the same to the file of the Sub Court, Poonamallee.

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

3.Ayyanarappan got married to Revathi on 27.01.2010 and thereafter, their marriage ran into rough weather. Revathi has initiated proceedings under Section 125 of Cr.P.C. in M.C.No.16 of 2016 before the Family Court, Thiruvallur against Ayyanarappan claiming maintenance. Ayyanarappan has entered appearance and contesting his case on the ground that Revathi is leading an adulterous life and therefore, she is not entitled to any maintenance. While so, Ayyanarappan has filed the present petition seeking transfer of M.C.No.16 of 2016 from the Family Court, Thiruvallur, to the Sub Court, Poonamallee, making certain allegations against the Presiding Officer, Family Court, Thiruvallur.

4.Heard Mr.C.Shyaamala, learned counsel appearing for the petitioner, who submitted that the Presiding Officer did not give full opportunity to Ayyanarappan to defend his case. She further submitted that petition filed by Ayyanarappan is not being entertained by the Presiding Officer.

5.This Court gave its anxious consideration to the submissions of Ms.C.Shyaamala, learned counsel appearing for

the petitioner.

6. Under Section 126 of the Code of Criminal Procedure, the territorial jurisdiction has been fixed. Where a Family Court has been constituted in a District, the local Magistrate loses its jurisdiction to entertain an application under Section 125 of Cr.P.C. Therefore, the prayer for transfer of the case from the Family Court to Sub Court, Poonamallee, cannot be countenanced, since the Sub Court does not have jurisdiction to entertain the application under Section 125 of Cr.P.C. However, this Court directs the learned Presiding Officer of the Family Court Thiruvallur, to provide adequate opportunities to Ayyanarappan to present his case. However, if Ayyanarappan files any application, which is per se not maintainable, the Presiding Officer is well within his power to return the petition by passing appropriate orders thereon.

With the above observation and direction, this Criminal Original Petition is closed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

mps

To

The Judge, Family Judge,
Thiruvallur.

+2cc to M/s.C.Shyaamala, Advocate Sr.No.29082 dt.8.6.2018

SV(CO)

sm:7.5.2018

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and

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