

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.11643 of 2018

and

Crl.M.P.No.6075 of 2018

Adish Haridas Petitioner

Vs

1.S.Divya

2.D.A.Ananya

3.D.A.Gowrinandan

... Respondents

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to set aside the order dated 27.02.2017 passed in Crl.M.P.No.4093 of 2016 in M.C.No.4 of 2016 on the file of the learned Judicial Magistrate, Thirukazhukundram and which was conformed by the learned Principal District and Sessions Judge, Kancheepuram District, Chengalpattu in Crl.R.C.No.8 of 2017 dated 28.02.2018.

For Petitioner :Mr.T.Velumani

ORDER

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

2.Adish Haridas got married to Divya and they have two children namely, Ananya and Gowrinandan. The spouse got estranged, on account of which, Divya filed M.C.No.4 of 2016 before the learned Judicial Magistrate, Thirukazhukundram, under Section 125 of Cr.P.C. Divya also filed C.M.P.No.4093 of 2016 in M.C.No.4 of 2016 for interim maintenance, in which, the learned Judicial Magistrate, Thirukazhukundram, by order dated 27.02.2017, has awarded interim maintenance of Rs.5,000/- each to two children, totally, Rs.10,000/-. Challenging the said order, Adish Haridas filed Crl.R.C.No.8 of 2017 before the Sessions Court, which has been dismissed by the learned Principal Sessions Judge on 28.02.2018. Aggrieved by which, Adish Haridas has filed the present petition under Section 482 of Cr.P.C.

3.Heard Mr.T.Velumani, learned counsel appearing for the petitioner.

4.At the outset, a second revision is not maintainable before the High Court, at the instance of a party, who has already approached the Sessions Court by invoking its revisional jurisdiction, in view of the Section 397(3) of Cr.P.C. However, a petition under Section 482 of Cr.P.C. is maintainable, where it is shown that the orders passed by the Courts below are per se illegal and beyond jurisdiction.

5.In this case, the learned Judicial Magistrate has jurisdiction to entertain the petition under Section 125 of Cr.P.C. and also award interim maintenance pendente lite. Challenging the said order, the revision petition was filed before the Sessions Court and the Sessions Court has also entertained the revision under Section 397 of Cr.P.C. Therefore, it cannot be stated that both the Courts have no jurisdiction to entertain this petition. Be that as it may, both the Courts have already decided the issue on facts which cannot be interfered with under Section 482 Cr.P.C.

Hence, this Criminal Original Petition is devoid of merits and the same is dismissed. Further, this Court directs the trial Court to complete the trial in M.C.No.4 of 2016 within three months from the date of receipt of a copy of this order, provided Adish Haridas shall co-operate with the trial and pays the interim maintenance amount without arrears. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar(CS)

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सत्यमेव जयते
Sub Assistant Registrar

mps

To

1.The Principal District and Sessions Judge,
Kancheepuram District,
Chengalpattu.

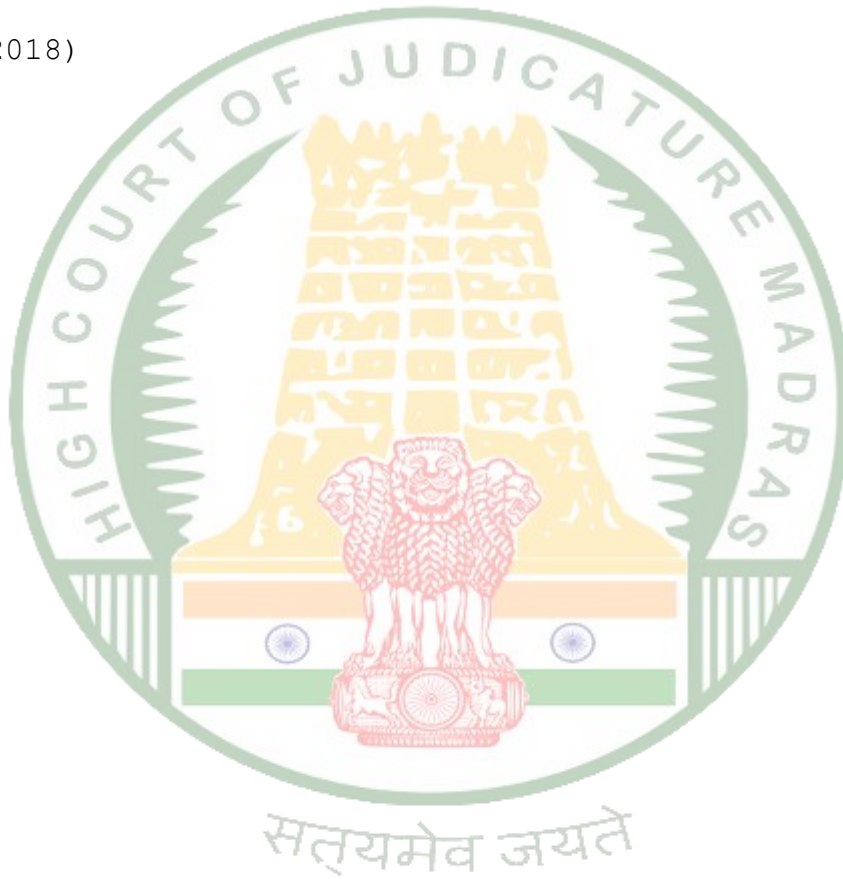
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2.The Judicial Magistrate,
Thirukazhukundram.

3.The Public Prosecutor,
Madras High Court,
Chennai.

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and
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TR(27/04/2018)



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