

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2018

CORAM:

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

Crl.O.P. No.1417 of 2018 & Crl.M.P. Nos.516 & 517 of 2018

Karthik @ Sabarivasan

Petitioner

vs.

Savithri @ Iswarya

Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records pertaining to the proceedings in M.C. No.20 of 2016 on the file of the Judicial Magistrate No.1, Mayiladuthurai and quash the same.

For petitioner

Mr. R. Ramachandran

For respondent

Mr. M. Kamala Kannan

ORDER

This Criminal Original Petition has been preferred seeking to call for the records pertaining to the proceedings in M.C. No.20 of 2016 on the file of the Judicial Magistrate No.1, Mayiladuthurai and quash the same.

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

3 Iswarya got married to Karthik on 02.11.2015 at Mayiladuthurai. Thereafter, their marriage broke. Karthik filed H.M.O.P. No.106 of 2016 before the Family Court, Coimbatore, for divorce and it is represented that an ex parte order of divorce has been passed by the Family Court, Coimbatore. While so, Iswarya has filed M.C. No.20 of 2016 before the Judicial Magistrate Court No.I, Myladuthurai under Section 125 Cr.P.C., for quashing which, Karthik is before this Court.

4 Heard the learned counsel for Karthik, who submitted that the petition filed by Iswarya in M.C. No.20 of 2016 under Section 125 Cr.P.C. is an abuse of process of law, inasmuch as, Iswarya has been set ex parte in the divorce proceedings in H.M.O.P. No.106 of 2016 and that she has not even filed any application to set aside the said ex parte order.

5 Be that as it may, a petition under Section 125 Cr.P.C. can be filed even by an estranged wife and the same cannot be

quashed at the threshold, without giving opportunity for both parties to adduce evidence.

In such perspective of the matter, this Criminal Original Petition is dismissed, with liberty to the petitioner to raise all the points before the Trial Court. Karthik is directed to appear before the Judicial Magistrate No.I, Mayiladuthurai in M.C.No.20 of 2016 and execute a bond under Section 88 Cr.P.C. for Rs.5,000/- without sureties, within a period of two weeks from the date of receipt of a copy of this order. Connected Crl.M.Ps. are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

cad

To

1 The Judicial Magistrate No.1, Mayiladuthurai

2 The Public Prosecutor
Madras High Court, Chennai 600 104

+1cc to Mr. R. Ramachandran, Advocate sr.no.55085

Cr1.O.P. No.1417 of 2018

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