

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2018

CORAM

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

Crl.O.P. No.15846 of 2018

and

Crl.MP.No.8110 of 2018

Dhakshina Murthy

...Petitioner/Respondent

vs.

Baby

...Respondent/Complainant

Criminal Original Petition filed under Section 482, Cr.P.C. to call for the records and set aside the order dated 06.01.2016 made in Criminal Revision Petition No.16 of 2012 on the file of the learned I Additional District and Sessions Judge, Vellore, confirming the judgment passed by the learned Chief Judicial Magistrate, Vellore in M.C.No.74 of 2009 dated 25.01.2012.

For petitioner : Mr.s.Samuel Raja Pandian

O R D E R

This Criminal Original Petition has been filed to call for the records and set aside the order dated 06.01.2016 made in Criminal Revision Petition No.16 of 2012 on the file of the Additional District and Sessions Court No.I, Vellore, confirming the judgment dated 25.01.2012 passed by the Chief Judicial Magistrate, Vellore in M.C.No.74 of 2009.

2. For the sake of convenience, the petitioner and the respondent will be referred to by their name.

3. Baby got married to Dhakshinamurthy on 26.08.1971 and they have four children through the wedlock. Admittedly, the children are married. Since Dhakshinamurthy did not maintain Baby, Baby filed M.C.No.74 of 2009 under Section 125 (1)(a) Cr.P.C before the Chief Judicial Magistrate, Vellore. Before the trial Court, Baby examined herself as PW1 and on behalf of Baby, 2 exhibits were marked. Dhakshinamurthy examined himself as R.W.1 and Rekha was examined as R.W.2. No exhibits were marked on behalf of Dhakshinamurthy. The trial Court returned the findings that Baby was neglected by Dhakshinamurthy and

that Dhakshinamurthy is liable to pay a sum of Rs.4,000/- to Baby as maintenance from the date of the petition. This order was passed on 25.01.2012. Not satisfied with the order, Dhakshinamurthy filed Criminal Revision petition No.16 of 2012 under Sections 397, 399(1) Cr.P.C, which was dismissed on 06.01.2016 by the Additional District and Sessions Judge No.I, Vellore. Aggrieved by the orders of the Court below, Dhakshinamurthy is before this Court invoking the inherent jurisdiction under Section 482 Cr.P.C.

4. Mr.S.Samuel Raja Pandian, learned counsel for the petitioner submitted that Baby and Dhakshinamurthy were estranged from the year 1992 itself and both the Court below have awarded the maintenance to Baby. He also submitted that Dhakshinamurthy is not in a position to make any payment to Baby.

5. This Court gave its anxious consideration to the submission of the learned counsel for the petitioner.

6. At the outset, it is seen that Dhakshinamurthy has not paid any maintenance to Baby from 2009 till date. That apart, under Section 397(3) Cr.P.C., when once a party invokes the revisional jurisdiction of the Sessions Court, he is precluded from approaching the High Court. However, a petition under Section 482 Cr.P.C. is maintainable in extraordinary situations, where it is shown that the orders passed by the Courts below have committed jurisdictional errors causing undue prejudice to the party. In this case, there is no jurisdictional error inasmuch as the Chief Judicial Magistrate has the jurisdiction to entertain the petition filed under Section 125 Cr.P.C., and the Sessions Court has the jurisdiction to entertain the revision petition filed under Section 397 Cr.P.C. Both the Courts have held on facts that Baby was neglected by Dhakshinamurthy and Dhakshinamurthy is liable to pay a sum of Rs.4,000/- which in today standard of living indeed is very measly amount.

7. In such view of the matter, this Court does not find any infirmity in the orders passed by the Courts below warranting interference in exercise of inherent jurisdiction under Section 482 Cr.P.C., Accordingly, this petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

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Sub Assistant Registrar

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To

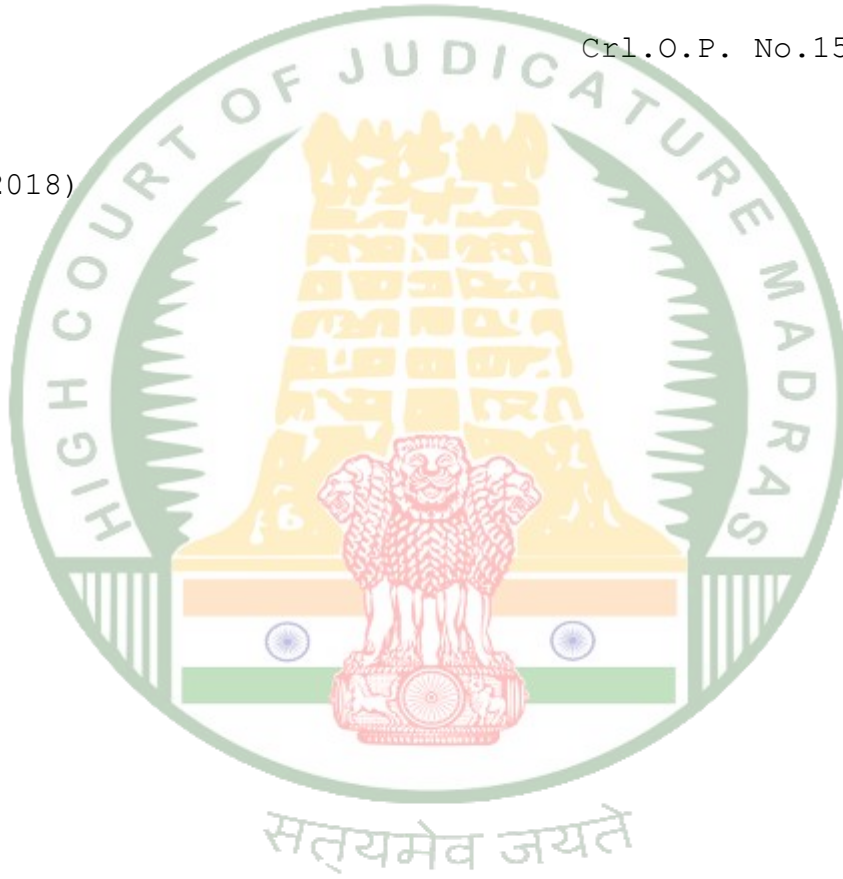
1.The Additional District Sessions Judge No.I,
Vellore.

2.The Chief Judicial Magistrate
Vellore.

+lcc to Mr.G.Jermiah, Advocate SR.No.38176

Cr1.O.P. No.15846 of 2018

SR(CO)
GN(26/06/2018)



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