

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2018

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.18001 of 2018

and

Crl.MP.No.9393 of 2018

Mohammed Siddique Riyaz

... Petitioner

Vs

K.Mukhtiyar

...Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., to withdraw the maintenance claim in M.C.No.1 of 2018 pending on the file of the learned Judicial Magistrate Court No.II, Ponneri and transfer the same to VII Additional Family Judge at Chennai.

For Petitioner : Mr.A.Ajimah Begam

O R D E R

This Criminal Original Petition has been filed to withdraw the maintenance claim in M.C.No.1 of 2018 pending on the file of the Judicial Magistrate Court No.II, Ponneri and transfer the same to VII Additional Family Judge at Chennai.

2. On 17.07.2018, when the matter was taken up for hearing, there is no representation for the petitioner and the matter was directed to be listed on 18.07.2018 under the caption "For dismissal". Accordingly, the matter is listed today (18.07.2018) under the caption "For dismissal". Today also, when the matter is taken up for hearing, there is no representation for the petitioner. Hence, this Court perused the records and passed the following order.

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

4. Mukhtiyar got married to Mohammed Siddique Riyaz on 23.05.2013 and thereafter, she lived in the matrimonial home for some time. It is the case of Mukhtiyar that her husband Mohammed Siddique Riyaz deserted her on 15.10.2013 and sent a divorce notice dated 09.05.2014, pronouncing 3 talaqs.

Thereafter, Mukhtiyar filed OS.No.86 of 2016 before the Family Court, Chennai, for declaring the notice of divorce dated 09.05.2014 as null and void. During the pendency of the suit, Mukhtiyar has been living with her parents within the jurisdiction of the Judicial Magistrate, Ponneri. Since she was not provided with any maintenance, she has filed M.C.No.1 of 2018 before the Judicial Magistrate, Ponneri, under Section 125 Cr.P.C. claiming maintenance from Mohammed Siddique Riyaz. Under such circumstances, Mohammed Siddique Riyaz is before this Court seeking a direction to transfer M.C.No.1 of 2018 to the Family Court, Chennai.

5. In the opinion of this Court, though the Family Court, Chennai has the jurisdiction to deal with a petition filed under Section 125 Cr.P.C. yet, the proceedings in M.C.No.1 of 2018 cannot be transferred, because that will only cause further delay of the maintenance proceedings indefinitely. The proceedings before the Magistrate under Section 125 Cr.P.C. are summary proceedings and that has to be decided expeditiously. Already OS.No.86 of 2016 has been filed by Mukhtiyar, which has not been concluded by the Family Court, Chennai, because of the huge arrears pending in the Family Court. In the interest of justice, this Court is not inclined to transfer M.C.No.1 of 2018 to the Family Court, Chennai. Hence, this petition is dismissed. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

The Judicial Magistrate No.II,
Ponneri.

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SP(26/07/2018)