

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.No.18449 of 2018

and

CrI.M.P.Nos.9704 and 9705 of 2018

P.Mahalakshmi
D/o.Late Palaniyappan

.. Petitioner

Vs

P.Manimala
W/o.Late K.Pazhaniappan

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the proceedings in M.C.No.1 of 2018 on the file of the learned Judicial Magistrate II, Kanchipuram and quash the same.

For Petitioner : Mr.G.M.Sankar

O R D E R

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

2. Manimala (respondent herein) has filed M.C.No.1 of 2018 under Section 125 Cr.P.C. before the learned Judicial Magistrate II, Kanchipuram, claiming a monthly maintenance of Rs.15,000/- from her daughter (petitioner herein), who is working as an Assistant in the Block Development Office, Kanchipuram, on the ground that Manimala is not able to maintain herself and her two minor sons, who are Mahalakshmi's siblings. Challenging the maintainability of the proceedings, Mahalakshmi is before this Court.

3. Mr.G.M.Sankar, learned counsel appearing for Mahalakshmi, submitted that Manimala has initiated the proceedings with ulterior motive inasmuch as she wants Mahalakshmi to rejoin her husband, who is none other than Manimala's younger brother.

4. In the opinion of this Court, disputed question of fact cannot be gone into under Section 482 Cr.P.C., especially in maintenance matter, where a mother is seeking maintenance from a daughter, who is a Government servant and that too working in the Block Development Office. That apart, there are two siblings for Mahalakshmi, who has to be taken care of by Manimala, who is a widow. Under such circumstances, this petition is devoid of merits and accordingly, the same is dismissed.

5. However, Mr.G.M.Sankar, learned counsel appearing for Mahalakshmi, submitted that Mahalakshmi has recently undergone an eye surgery and therefore, her presence before the Trial Court may be dispensed with.

Accepting his submission, Mahalakshmi is directed to appear before the Trial Court within a period of two weeks from the date of receipt of a copy of this order and execute a bond under Section 88 Cr.P.C. for Rs.5,000/- (Rupees Five Thousand only) without sureties. She shall engage an Advocate and give an undertaking that her Advocate will cross-examine the witnesses on the date of her examination in chief and that she will not dispute her identity. On such undertaking being given, the presence of Mahalakshmi before the Trial Court is dispensed with for a period of three months from the date of execution of bond under Section 88 Cr.P.C. The Trial Court is directed to complete the proceedings in M.C.No.1 of 2018 within a period of six months from the date of receipt of a copy of this order provided there are no other legal impediment. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

gm

To

The Judicial Magistrate II,
Kanchipuram.

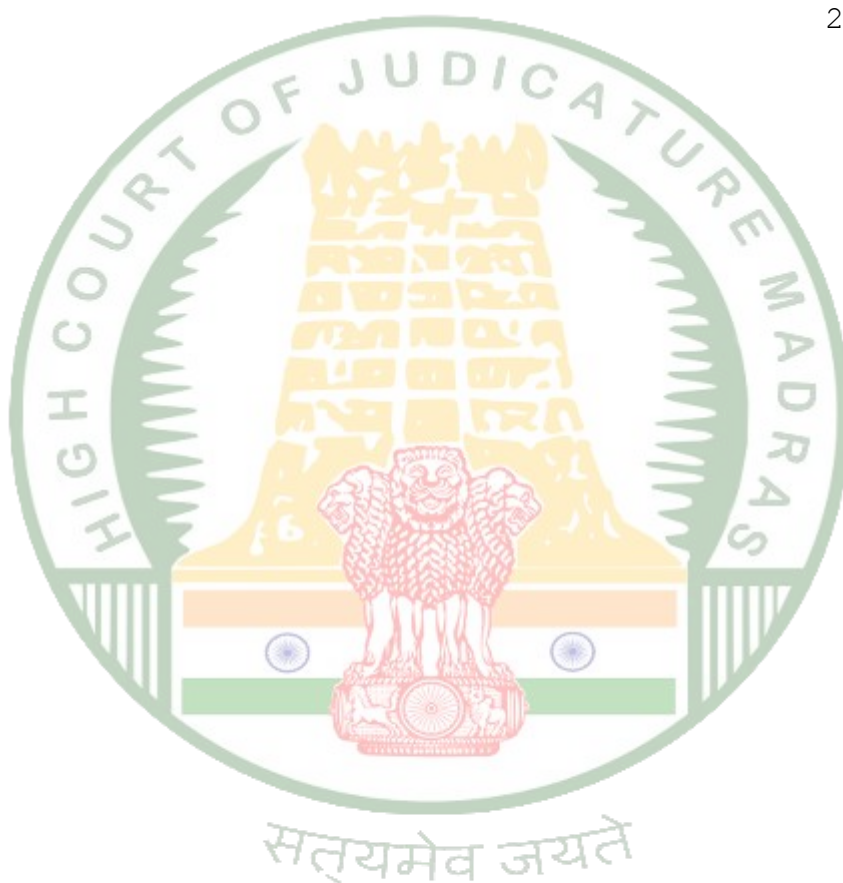
+1 C.C. to M/S.G.M.SANKAR, Advocate SR.NO. 49879

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