

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2018

CORAM

THE HONOURABLE Mrs.JUSTICE R.HEMALATHA

CRL.O.P.No.149 of 2013

Sasikala .. Petitioner/Petitioner/Petitioner

Vs

The Jaganathan @ Dhanapal .. Respondent/Respondent/Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to set aside the orders passed by the learned Principal District and Sessions Judge, Tiruvarur in Crl.R.P.No.9 of 2010, dated 28.08.2012.

For Petitioner : Mr. T. Muruganantham
For Respondent : Mr. S. Sounthar

O R D E R

The petitioner, namely, Sasikala/wife of Jeganathan @ Dhanapal, the respondent herein, has filed the present petition under Section 482 Cr.P.C to set aside the orders passed by the learned Principal District and Sessions Judge, Tiruvarur in Crl.R.P.No.9 of 2010 dated 28.09.2012.

2. The petitioner/Sasikala has filed a petition in M.C.No.1 of 2007 before the learned District Munsif cum Judicial Magistrate, Nannilam, claiming maintenance from her husband, the respondent herein. After full contest, the said petition was dismissed on 16.06.2010 by the learned District Magistrate cum Judicial Magistrate, Nannilam.

3. Aggrieved over the said order passed by the learned District Magistrate cum Judicial Magistrate, Nannilam, the petitioner filed the revision petition before the learned Principal District and Sessions Judge, Tiruvarur in Crl.R.P.No.9 of 2010 and the said petition was also dismissed, confirming the orders passed by the trial Court. The present Criminal Original Petition has been filed to set aside the order passed in Crl.R.P.No.9 of 2010 on 28.08.2012 by the learned District & Sessions Judge, Thiruvarur.

4. Mr.T.Muruganantham, learned counsel appearing for the petitioner would contend that the respondent did not take care

of his wife, the petitioner herein and also had an extra marital affair with one Radha and drove the petitioner away from the matrimonial home which forced the petitioner to reside with her parents at Kodavasal, Tiruvarur District.

5. The learned counsel for the petitioner would further contend that the respondent is duty bound to maintain his wife and therefore prayed for setting aside the order passed by the learned District and Sessions Judge, Tiruvarur.

6. A perusal of the orders passed by the learned District Munsif cum Judicial Magistrate, Nannilam, dated 16.06.2010 clearly shows that the petitioner herein had left the matrimonial home without any reasonable cause. The Respondents 2 and 3 are the daughters of the petitioner herein. The daughters of the petitioner /respondents 2 and 3 have categorically deposed before the trial Court that their mother left the matrimonial home four years prior to the date of their deposition and is living with one Ganesan.

7. It is further observed by the learned District Munsif cum Judicial Magistrate, Nannilam that the petitioner has not proved any of her contentions. The learned District Munsif cum Judicial Magistrate, Nannilam analysed the entire evidence on record and came to the conclusion that the petitioner is not entitled to claim any maintenance from the respondent herein.

8. At this stage, it is relevant to extract Section 125 (4) of Cr.P.C., which reads as under:-

"No wife shall be entitled to receive an (allowance for the maintenance or the interim maintenance and expenses of proceedings, as the case may be) from her husband under this section if she is living, in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent."

9. It is also evident from the records, the petitioner left the matrimonial home on 15.04.2006 and the respondent had also lodged a complaint with the Police in this regard. Subsequently, he filed a petition seeking divorce, on the ground of adultery committed by the petitioner herein.

10. Both the Courts below viz., the learned District Munsif and Judicial Magistrate, Nannilam and the learned District Judge, Tiruvarur, observed that since the petitioner left the matrimonial home without sufficient cause she is not entitled to claim maintenance and the finding is based on the evidence adduced on both sides.

11. The reasons assigned by both the Courts are well founded and therefore, I do not see any reason to interfere with the findings of the Trial Courts.

12. In the result, this petition is dismissed.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

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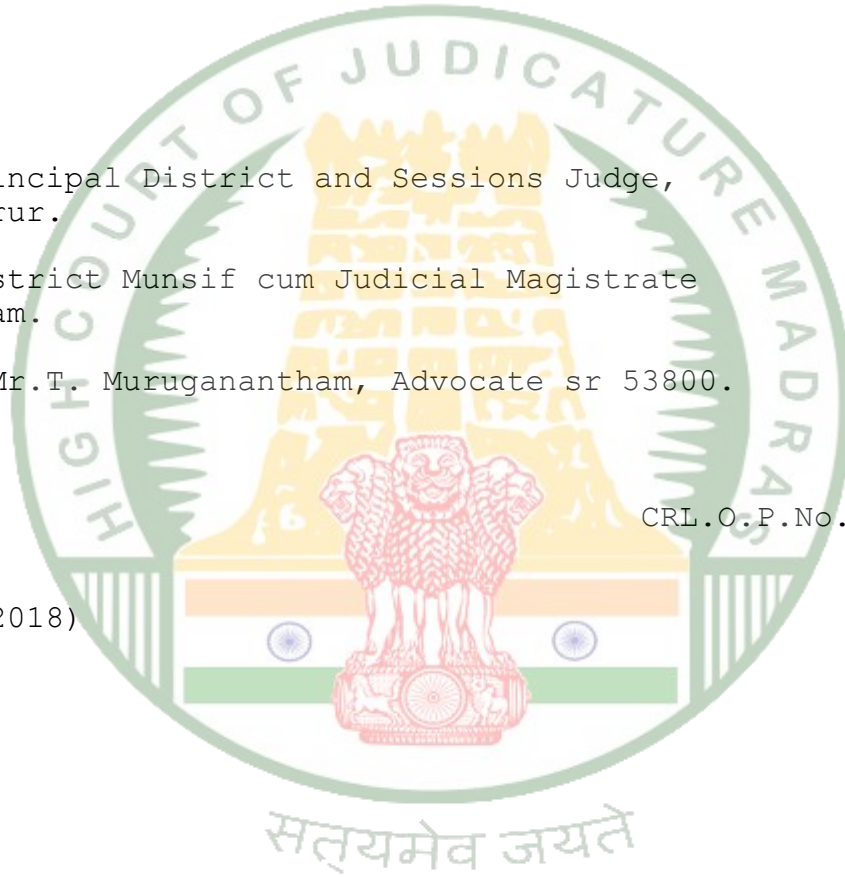
1. The Principal District and Sessions Judge,
Tiruvarur.

2. The District Munsif cum Judicial Magistrate
Nannilam.

+1 CC to Mr.T. Muruganantham, Advocate sr 53800.

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SSV(CO)
SP(05/09/2018)



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