



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2018

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THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.(MD) No.12327 of 2015andM.P.(MD) .No.1 of 2015andCrl.M.P.(MD)No.11074 of 2017

Umeshnathan

... Petitioner

-Vs-

1.R.Meenakshi

2.Minor.Vaseekaran

... Respondents

(Represented by Mother and
Guardian Meenakshi,
1st Respondent herein,)

Prayer: Criminal Original petition filed under Section 407(1)(c)(ii) of Code of Criminal Procedure, to withdraw and transfer the case in M.C.No.194 of 2013 pending on the file of the Learned Chief Judicial Magistrate at Tiruchirapalli to the Family Court at Tiruchirapalli.

For Petitioner : Mr.N.Sivasubramani
For Respondents : Mrs.T.Banumathy

ORDER

The Criminal Original Petition has been filed to withdraw and transfer the case in M.C.No.194 of 2013 pending on the file of the Learned Chief Judicial Magistrate at Tiruchirapalli to the Family Court at Tiruchirapalli.

2.The learned counsel appearing for the petitioner has submitted that as per Section 8 (b) of the Family Courts Act, after establishment of the Family Court for any area, no Magistrate shall in relation to such area have or exercise in any jurisdiction or powers under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) and hence, the above said maintenance case has to be transferred to the Family Court, Trichy.

3.The learned Counsel appearing for the respondents has fairly conceded about the aforesaid legal position. Further, he has submitted that he has no objection for transferring the above maintenance case to the Family Court, Trichy.



4. In Section 8 (b) of the Family Courts Act, it is specifically stated that where a Family Court has been established for any area, no Magistrate shall, in relation to such area, have or exercise any jurisdiction or powers under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974).

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5. Admittedly, M.C.No.194 of 2013 has been filed under Section 125 of Cr.P.C. seeking maintenance. The said section comes under chapter IX of Cr.P.C. Therefore, in view of the section 8(b) of the Family Courts Act, the Chief Judicial Magistrate, Trichy is not having jurisdiction to enquire with regard to the maintenance cases, which are filed under Section 125 of Cr.P.C. Therefore, the case in M.C.No.194 of 2013 has to be transferred to the Family Court, Trichy.

6. In the result, this petition is allowed. The case in M.C.No.194 of 2013 is withdrawn from the learned Chief Judicial Magistrate at Trichy and transferred to the Family Court, Trichy, for disposal in accordance with law. Taking into consideration, the above maintenance case is pending from the year 2013, the learned judge for the family Court, Trichy is directed to dispose of the above case within a period of a three months from the date of receipt of a copy of this order. Consequently, M.P.(MD).No.1 of 2015 and CrI.M.P.(MD)No.11074 of 2017 are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The Chief Judicial Magistrate,
Tiruchirapalli.

2. The Judge,
Family Court,
Tiruchirapalli.

+1cc to M/S.R.Narayanan, Advocate SR.No. 45818

CrI.O.P.(MD) No.12327 of 2015
and
M.P.(MD).No.1 of 2015
and
CrI.M.P.(MD)No.11074 of 2017
01.02.2018

CP/VSG

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