



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Cr1.O.P. (MD) .No.14954 of 2018

1.Revathi

2.Minor Prassana

(MINOR REPRESENTED BY HIS MOTHER AND

NEXT FRIEND REVATHI)

...Petitioners

Vs.

Raja @ Ramachandran

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the return endorsement passed by the learned Chief Judicial Magistrate, Pudukottai in unnumbered Cr.M.P.SR.No.1169 of 2018, dated 31.05.2018 and direct the learned Chief Judicial Magistrate, Pudukottai to number the same.

For Petitioners

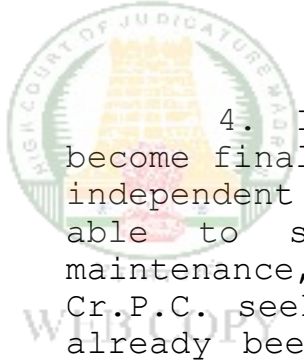
:Mr.D.Rameshkumar

O R D E R

This Criminal Original petition has been filed against the rejection of the petition filed by the petitioners under Section 125 Cr.P.C seeking for a maintenance of Rs.10,000/- (Rupees Ten Thousand only) for the first petitioner / wife and the second petitioner / minor son.

2. The learned Chief Judicial Magistrate, Pudukottai, has returned the petition filed by the petitioners on the ground that a maintenance of Rs.4,000/- (Rupees Four Thousand only) was already ordered and confirmed by the High Court. After the maintenance amount has become final, the petitioner cannot maintain another petition under Section 125 Cr.P.C.

3. The scheme under Section 125 Cr.P.C itself makes it clear that if the husband fails to comply with an order passed by the Court fixing the maintenance, in such event, the wife will have to execute the order in accordance with under Section 125 (3) Cr.P.C and on the other hand, if the wife seeks for an enhancement of the maintenance amount, a petition under Section 127 Cr.P.C must be filed by citing the change in circumstances and the reason as to why the enhanced maintenance amount is being sought for.



4. In the present case, after the maintenance amount has become final before this Court, the petitioner cannot maintain another independent petition under Section 125 Cr.P.C. If the petitioner is able to show the change in circumstances and seek enhanced maintenance, the petitioner can only file a petition under Section 127 Cr.P.C. seeking for an alteration in the maintenance amount that has already been fixed. If the petitioner is aggrieved by the non-compliance of the order of maintenance by the husband, the petitioner has to work out her remedy under Section 125 (3) Cr.P.C. The petitioner therefore cannot maintain a fresh Petition under Section 125 Cr.P.C. Liberty is given to the petitioners to work out the remedy either under Section 125 (3) Cr.P.C. or under Section 127 Cr.P.C.

5. This Criminal Original Petition is disposed of with the above directions.

SD
ASSISTANT REGISTRAR (WRITS)

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SUB ASSISTANT REGISTRAR (CS III)

tsg

To

1.The Chief Judicial Magistrate, Pudukottai

2.Thro'The Chief Judicial Magistrate, Pudukkottai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

1cc to mr. D. RAMESH KUMAR, ADVOCATE SR 80031

DS SKN SAR 3

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24.08.2018