



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.(MD)No.15307 of 2018

1. Palaniselvam

2. Kaniskha

... Petitioners

Vs.

Kalaimani @ Mani

...Respondent

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to direct the Judicial Magistrate, Aranthangi to number the petition dated 28.05.2018 filed by the petitioner under Section 125 of Cr.P.C and act in accordance with law.

For Petitioners : Mr.T.Lenin Kumar

ORDER

This Criminal Original Petition has been filed to direct the learned Judicial Magistrate, Aranthangi to number the petition filed by the petitioner under Section 125 of Cr.P.C

2. This Court already passed an order in Cr1.O.P(MD) No.10866 of 2018 dated 02.07.2018 directing the learned Judicial Magistrate, Aranthangi to number the petition if it is satisfied and if not , the learned Judicial Magistrate, Aranthangi was directed to return by stating the reasons.

3. Subsequent to the order passed by this Court, the petition was again represented and the learned Judicial Magistrate, Aranthangi has again returned the petition on the ground that even though the petitioner states that the marriage was solemnized as per Hindu Rights, the petitioner has not filed any proof for the said marriage. On that ground, the petition has been returned and has not been entertained.

4. In the considered view of this Court, it is not necessary for the petitioner to file all documents inorder to prove the marriage even at the threshold stage. The Honourable Supreme Court in the Judgment in Chand Patel - vs- Bismillah Begum and another reported in 2008 4(SCC) Page 774 reiterated that even in a case where the marriage is claimed to be irregular, the wife will be



entitled for maintenance until it is declared as void by a competent court. When such is the view taken by the Apex Court, the Court below has returned the petition on the ground that the petitioner has not filed sufficient documents to prove the marriage.

5. The petitioner is directed to represent the papers and the learned Judicial Magistrate, Aranthangi is directed to entertain the said petition and number the same within a period of one week from the date of receipt of a copy of this order and thereafter proceed in accordance with law.

5. With the above direction, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar (Cr1.Side)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1.The Judicial Magistrate,
Aranthangi

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

+1CC to Mr.T.Leninkumar Advocate in Sr.No.80911.

AAV

DS SKN RSK SAR-4;31.08.2018;2P/4C

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