



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1. OP (MD)No.22530 of 2013
and
MP(MD)Nos.1 and 2 of 2013

Ravindran

... Petitioner/Respondent

Vs.

Saraswathi Ammal

... Respondent/Petitioner

Prayer : This Criminal Original Petition is filed Under Section 482 of Criminal Procedure Code to call for the proceedings pending in M.C.18 of 2013 on the file of Judicial Magistrate, Aruppukkottai and to quash the same.

For Petitioner : Mr.G.Mariappan
for M/s.Veera Associates
For Respondents : Mr.M.Thirunavukkarasu

ORDER

The petitioner is the husband. The respondent is the wife. For the last twenty years, they are living separately. The respondent has filed MC.No.18 of 2013 on the file of the Judicial Magistrate, Aruppukkottai seeking maintenance to the tune of Rs.10,000/- per month.

2.The learned counsel appearing for the petitioner would contended that the respondent had already filed Civil Suit in O.S.No.29 of 1996 before the District Munsif Court, Vilathikulam and a sum of Rs.1,500/- per month was ordered to be paid as maintenance. Questioning the same, the petitioner has filed AS.No.233 of 1997 before the Sub Court, Kovilpatti where in the maintenance sum has been reduced as Rs.1250/-. However, the second appeal filed by the petitioner herein was dismissed on 12.04.2000.

3.The learned counsel for the petitioner would further point out that the respondent filed execution petition to enforce the decree obtained by her and even got the benefit to send the civil prison. He would therefore contend that when a civil decree for payment of maintenance as already obtained by the wife, it is not open to her to subsequently initiate proceedings



under Section 125 of Cr.PC.

4.This Court is of the view that this contention can very well be raised before the Judicial Magistrate, Aruppukkottai. It is submitted that the witnesses have been already examined and that the matter is posted for arguments. A petition filed under Section 482 of Cr.PC is normally not entertained if the trial had commenced in the meanwhile.

5.Applying the same yardstick, the present Criminal Original Petition is closed leaving it open to the petitioner to raise his contention before the learned Judicial Magistrate, Aruppukkottai. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate, Aruppukkottai.

+ 1 CC TO Mr.G.MARIAPPAN, ADVOCATE IN SR No. 60144

SKM

TE/JC/SAR-4 : 26/04/2018 : 2P/3C

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