

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Cr1.O.P.Nos.16317 & 16318 of 2013 and
M.P.Nos.1, 1, 2 & 2 of 2013

C.U.Sampath Petitioner in both the Ops

Vs.

1. S.Iniyan
2. Minor S.Kavinila
3. Minor S.Kathiravan Respondents in both the OPs
(Minors represented by the
Mother Mrs.Thenral)

PRAYER in both the OPs: Criminal Original Petitions filed under Section 482 Cr.P.C. praying to call for the proceedings in C.M.P.Nos.3558 & 3559 of 2012 respectively in M.C.No.3 of 2006 on the file of the learned Judicial Magistrate No.I, Tirupattur and quash the same.

For Petitioners : Mr.G.Jeremiah in both the Ops

For Respondents : Notice served - No Appearance - in both the OPs

COMMON ORDER

The respondents have filed a case in M.C.No.3 of 2006 before the learned Judicial Magistrate No.I, Tirupattur against the petitioner and subsequently filed a petition for enhancement, in which, the Court has rejected the claim against the first respondent, since he attained majority and enhanced maintenance to Rs.10,340/- to 2nd and 3rd respondents, by order dated 28.10.2010. Thereafter, since the the petitioner/father has not paid the maintenance, the respondents 1 to 3 have filed the miscellaneous petitions seeking to direct the petitioner to pay the arrears of maintenance and the monthly maintenance regularly, which are sought to be quashed in these criminal original petitions.

2 According to learned counsel appearing for the petitioner, the first petitioner has attained majority and hence the Magistrate himself has rejected the claim against him. The learned Judicial Magistrate No.I, Tirupattur, without considering the above fact, has taken the present miscellaneous petitions on file, which are liable to be quashed.

3 When the matter is taken up for hearing, there is no representation for the respondents. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

4 It is seen that the petitioner is father and respondents are his children. The respondents/children filed a maintenance case against their father and a sum of Rs.2,500/- was awarded as maintenance and subsequently, the respondents filed a petition under Section 127 of Cr.P.C. seeking enhancement of maintenance. The learned Magistrate, by order dated 28.10.2010, rejected the claim against the first respondent, since he attained majority and enhanced maintenance to Rs.10,340/-. The respondents have filed the present miscellaneous petitions, seeking to direct the petitioner/father to pay the arrears of maintenance and the maintenance regularly, since the petitioner/father has not paid the maintenance.

5 it is seen that relationship between the parties are admitted. At the time of filing of maintenance case, all the respondents are minor and subsequently, the first respondent attained majority and hence the learned Magistrate rejected the claim of enhancement of maintenance for the first respondent. The learned counsel appearing for the petitioner is not in a position to say that whether the petitioner has paid maintenance to the first respondent till the date of attaining majority or not. Under this circumstances, this Court is not inclined to invoke Section 482 of Cr.P.C and quash the proceedings in the miscellaneous petitions.

6 In the result, these criminal original petitions are dismissed. Consequently, connected miscellaneous petitions are closed. However, the petitioner is at liberty to raise all his defence before the learned Magistrate.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.I,
Tirupattur.

CrI.O.P.No.16317 & 16318 of 2013 and
M.P.Nos.1, 1, 2 & 2 of 2013

AD(CO)
CB(21/01/2020)



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