

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27.04.2019
CORAM:
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN
Crl.O.P.No.9416 of 2019

N.Mohamed Umar Farook

...Petitioner

-Vs-

A.Shama Kouser Jabeen

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the V Additional Family Judge, Chennai to allow the petition filed under Section 311 Cr.P.C. by the petitioner to re-call the respondent.

For Petitioner : Mr.J.C.Durairaj
For Respondent : Mr.K.Venkateswaran

ORDER

This petition has been filed to direct the learned V Additional Family Judge, Chennai to allow the petition filed under Section 311 Cr.P.C. by the petitioner to re-call the respondent.

2. The learned counsel for the petitioner submits that the respondent filed M.C.No.69 of 2018 seeking maintenance against the petitioner before the learned V Additional Family Judge, Chennai, and when it was pending she also filed M.P.No.558 of 2018 seeking interim maintenance, wherein she also let in evidence, but she never disclosed her education qualification and earning capacity. Hence, the petitioner filed a petition under Section 311 Cr.P.C. to recall the respondent, but the trial court without considering the contentions of the petitioner has returned the same with an endorsement 'non maintainable'. Hence, the petitioner has filed this criminal original petition to direct the learned V Additional Family Judge, Chennai to allow the petition filed under Section 311 Cr.P.C. by the petitioner to re-call the respondent.

3. Heard the learned counsel for the petitioner.

4. It is seen that the court below has returned the petition with an endorsement 'not maintainable'. This court is of the view that no prejudice would be caused if the present petition is allowed by the court below. Considering the facts and circumstances of the case, the trial court is directed to take

the application filed by the petitioner under Section 311 Cr.P.C. and consider the same on condition that the petitioner shall pay interim maintenance of Rs.10,000/- (Rupees Ten Thousand only) per month to the respondent and a sum of Rs.10,000/- (Rupees Ten Thousand only) per month to the minor child till disposal of the maintenance case in M.C.No.69 of 2018, and after adducing evidence, the trial court is directed to complete the trial process within three months thereafter.

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

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

lok

To

The learned V Additional Family Judge,
Chennai

+1cc to M/s.S.N.A.Hussainy, Advocate sr.41159
+1cc to Mr.K.Venkateswaran, Advocate sr.41546

Cr1.O.P.No.9416 of 2019

ssm(co)
nr 03/06/2019

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