

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED :10.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.14497 of 2019  
and  
M.P.No.7040 of 2019

N.Chandran

... Petitioner/Respondent

Vs.

Maragatham

... Respondent/Petitioner

Prayer: This Criminal Original Petition filed under Section 482 of Cr.P.C. praying to set aside the order dated 10.05.2019 passed by the Judicial Magistrate No.1, Sankari in C.M.P.No.4586 of 2017 in M.C.No.5 of 2014 of the Judicial Magistrate No.1, Sankari, Salem District and to order to summon Branch Manager, Co-operative Urban Bank Ltd, Sankari and the Superintendent of Post Office, Namakkal Division and cause production of deposit particulars pertaining in the name of the respondent/wife of the petitioner.

For Petitioner : Mr.B.Vasudevan

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the application filed under Section 91 of Cr.P.C filed by the petitioners for issuing summons and for furnishing certain documents.

2. The petitioner is facing trial before the Court below in the maintenance case instituted by the respondent under Section 125 of Cr.P.C. The case was at the stage of cross-examination of P.W.1. At that point of time, the present petition came to be filed seeking for issuing summons to the witness and to cause production of certain documents.

3. The Court below dismissed the petition mainly on the ground that the cross-examination of P.W.1 is pending from December 2016 onwards and without cross examining P.W.1, the petitioner has filed the present petition under Section 91 of Cr.P.C. seeking to summon certain documents. The Court below has

said that these documents can always be summoned by the petitioner at the time of his evidence.

4. The learned counsel for the petitioner submitted that the respondent/wife herself had made certain statements in her evidence which shows that she has sufficient means to maintain herself and she owns both movable and immovable properties. In order to prove the same, the petitioner wanted to summon certain witnesses for furnishing the documents. This opportunity cannot be denied to the petitioner since ultimately the Court below has to decide whether the respondent is capable of maintaining herself or she is depending upon the petitioner for her maintenance.

5. This Court has carefully considered the submissions made by the learned counsel for the petitioner and the materials available on record.

6. This Court does not find any illegality or infirmity in the Order passed by the Court below. The Court below has merely said that the petitioner can proceed to cross-examine P.W.1 and when the case is at the stage of evidence on the side of the petitioner, the petitioner can always summon those documents and the same can be marked. This does not require the evidence of P.W.1 to be kept pending. In short, the rights of the petitioner has not been foreclosed by the order of the Court below. There are absolutely no grounds to interfere with the order passed by the Court below.

7. In view of the above, the order passed by the Court below in CMP.No.4586 of 2017 is hereby sustained. It is made clear that the petitioner is at liberty to file an appropriate petition at the appropriate time for summoning the documents required by him and the petitioner shall proceed further with the cross-examination of P.W.1 for the present.

8. In the result, the Criminal Original Petition is dismissed and the Court below is directed to complete the proceedings in M.C.No.5 of 2014, within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

vv/kal

To

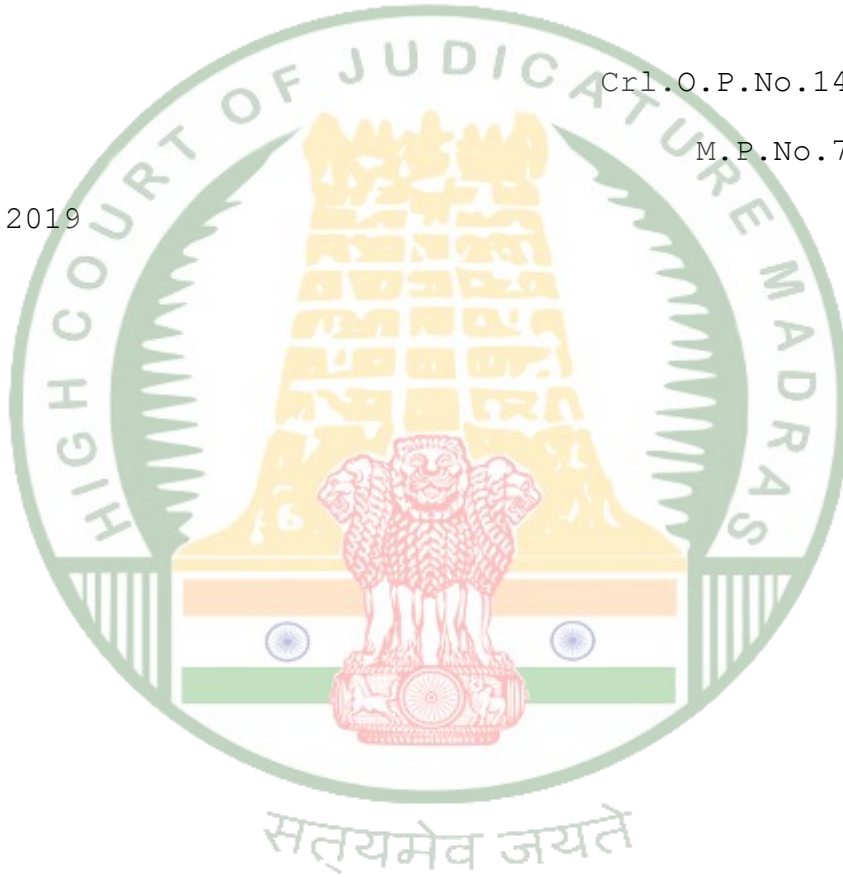
1. The Judicial Magistrate No.1,  
Sankari, Salem District

2. The Public Prosecutor,  
High Court of Madras,  
Chennai.

+1 cc to Mr.B.Vasudevan, Advocate, Sr.No. 47023

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NRJK(CO)  
CSL/05.07.2019



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