

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P Nos.15161 & 15163 of 2019
and
Crl.M.P Nos.7391 & 7393 of 2019

Kumaravel

Petitioner
in both Crl.O.Ps

vs.

1. G.Kavitha

2. Minor Ashvitha

Respondents

Rep by Next Friend and Guardian G.Kavitha in both Crl.O.Ps

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 24.05.2019 in C.M.P.No.458 of 2018 and C.M.P.No.361 of 2018 respectively in M.C.No.5 of 2010 on the file of the Judicial Magistrate, No-I, Sankari.

For Petitioner : Mr.P.Tamilavel
in both Crl.O.Ps

COMMON ORDER

These petitions have been filed challenging the order passed by the Court below dismissing the application filed under Section 311 and Section 91 of Cr.P.C. to mark certain documents and to call certain witnesses.

2. The petitioner is the husband and the respondent has initiated proceedings under Section 125 of Cr.P.C. seeking for maintenance. The proceedings were initiated in the year 2010 and the case was at the stage of final hearing and at that point of time the present petitions came to be filed before the Court below. The Court below dismissed the petitions on the ground that there is no explanation as to why the petitioner waited for such long time to file a petition and the summary procedure has to be followed while dealing with the petition under Section 125 of Cr.P.C. where the Court has to only decide whether the wife is entitled for a maintenance and whether she is in a position

to maintain herself or seek for maintenance from the husband.

3. The learned counsel for the petitioner submitted that the petitioner underwent heart surgery in the year 2012 and it is only those documents pertaining to the surgery which was sought to be marked before the Court below. The learned counsel submitted that these documents will have a bearing when the Court below finally decides the maintenance amount payable by the petitioner to the respondent. The learned counsel submitted that if an opportunity is not given to the petitioner to mark the documents and to examine the relevant witnesses, the petitioner will be put to prejudice.

4. This Court has carefully considered the submission made by the learned counsel for the petitioner and also perused the materials placed on record.

5. The proceedings for maintenance case were initiated in the year 2010. Admittedly, the petitioner underwent heart surgery in the year 2012-13. The petitioner has chosen to file two applications one under Section 311 of Cr.P.C. and another under Section 91 of Cr.P.C. only in the year 2018 and that too at the fag end of the proceedings. There is absolutely no explanation as to why the petitioner waited for such a long time to move these applications.

6. This Court does not find any illegality or infirmity in the order passed by the Court below and there are absolutely no grounds to interfere with the same.

7. In the result, these Criminal Original Petitions are dismissed and the Court below is directed to complete the proceedings in M.C.No.5 of 2010 within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Judicial Magistrate, No-I,
Sankari.

2.The Chief Judicial Magistrate,
Sankari.

Crl.O.P Nos.15161 & 15163 of 2019
and Crl.M.P Nos.7391 & 7393 of 2019

PPA (CO)
GN (18/07/2019)



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