

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.27901 of 2018 and
Crl.M.P.No.16168 of 2018

R.Mothilal

... Petitioner

Vs.

Mangaleshwari

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records of D.V.C.No.365 of 2017 on the file of Additional Mahila Metropolitan Magistrate, Egmore and quash the same.

For Petitioner : Mr.Naveen Kumar Murthi

For Respondent : Mr.K.Srinivasan

ORDER

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.365 of 2017 on the file of Additional Mahila Metropolitan Magistrate, Egmore.

2.The learned counsel for the petitioner submitted that the respondent is not at all the wife of the petitioner and there is no marriage held between them. The respondent is a habitual litigant with a false and frivolous particulars targeting the petitioner from the year 1985. As early as in the year 1985 itself, the respondent filed a Maintenance Case against the petitioner in M.C.No.189 of 1985 on the file of the II Metropolitan Magistrate Court, Egmore, under Section 125 of Cr.P.C. The said Maintenance case was dismissed by an order dated 06.08.1986 on the ground that the respondent did not prove their marriage and declared that she is not a legally wedded wife.

3.Further, it is also seen from the records that the respondent filed a Revision case before this Court in Crl.R.C.No.853 of 1986 and the said revision case also dismissed by this Court as devoid of merits and upheld the findings of the

learned Magistrate that there is no marriage subsisting between the petitioner and the respondent herein.

4.It is also seen from the records that the respondent did not stop the foisting frivolous litigations and filed a petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act 1955 in F.C.O.P.No.344 of 2001 before the Principal Family Court, Madras. It is also dismissed for the reason that the respondent did not prove their marriage allegedly subsisting between them. The respondent again filed a C.M.A.No.3405 of 2006 before this Division Bench of this Court and the same also dismissed on 28.03.2008.

5.After approaching all the Courts below for restitution of conjugal rights, all the Courts held that the respondent is not at all a legally wedded wife to the petitioner herein.

6.While being so, again the respondent filed a proceedings under the Domestic Violence Act in D.V.C.No.365 of 2017 suppressing the above facts. Therefore, the entire proceedings initiated by the respondent under the Domestic Violence case is clear abuse of process of law and it cannot be sustained as against the petitioner only for the reason that all the Court held that there is no marriage subsisting between the petitioner and the respondent and the respondent is not legally wedded wife of the petitioner.

7.In view of the above discussions, the proceedings in D.V.C.No.365 of 2017 on the file of the Additional Mahila Metropolitan Magistrate, Egmore, Chennai is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Additional Mahila Metropolitan Magistrate,
Egmore, Chennai.

+lcc to Ms.S.Varsha, Advocate Sr.35893

CRL.O.P.No.27901 of 2018

mp[co]
srg 6/6/2019