



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD) No.19664 of 2015

and

M.P. (MD) No.1 of 2015

Chinna Karuppan

... Petitioner

-vs-

C.Murugayee

... Respondent

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for the records and set aside the order passed by the Court of Additional and District and Sessions Judge, Virudhunagar in Crl.R.P.No.12 of 2013 dated 07.09.2015 in confirming the order passed by the Court of the Judicial Magistrate No.II, Virudhunagar in M.C.No.13 of 2011 on 07.02.2013 and allow this Criminal Original Petition.

For Petitioner : Mr.G.Marimuthu

O R D E R

The respondent herein filed M.C.No.13 of 2011 before the Judicial Magistrate No.II, Virudhunagar. She claimed maintenance from the petitioner herein. The petitioner herein filed a counter contesting the marital status of the respondent. According to the petitioner, he is not the husband of the respondent and that he is not the father of the child (Kaleeswari) born to the respondent. But then, the learned trial Magistrate allowed the maintenance claimed by the respondent and directed the petitioner to pay a sum of Rs.1,500/- per month. The same was put to challenge by the petitioner by filing a revision petition. The revisional Court also confirmed the order of the Trial Magistrate. Questioning the same, this Criminal Original Petition has been filed.

2.Since there is a bar against second revision under Section 397(3) of Cr.P.C., the same cannot be over come by invoking the inherent powers of this Court in normal circumstances. Therefore, I am not inclined to interfere with the orders passed by the Courts below. But then, it must be clarified that the respondent herein or Kaleeswari, born to the respondent herein, cannot take advantage of any findings rendered in the orders passed by the Courts below and which have been impugned in this Criminal Original Petition.



3.It is stated that a partition suit has been filed against the petitioner and his family members by the said Kaleeswari, daughter of the respondent herein. It is stated that in the said suit proceedings, the petitioner had specifically denied his paternity. The Civil Court will have to necessarily decide the issue of paternity and the marital status of the respondent independently and based on the evidence adduced before the civil Court. It is once again reiterated that the findings and decision given by the Courts below are left intact only for the sole purpose of giving a disposal to this Criminal Original Petition and it cannot be relied upon in the collateral proceedings.

4.With this observation, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

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To

1.The Additional and District and Sessions Judge, Virudhunagar.

2.The Judicial Magistrate No.II, Virudhunagar.

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-104574[F] dated 12/12/2019)

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SMA/01/06/2020/2P/4C