



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.11.2019

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD).No.9227 of 2018

AB.Natarajan

... Petitioner

Vs.

S.Mala

... Respondent

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to set aside the order passed in Crl.A.No.16 of 2014 on the file of the V Additional District and Sessions Judge dated 29.08.2017, confirming the order passed in crl.M.P.No.2727 of 2012 on the file of the District Munsif cum Judicial Magistrate No.I, Usilampatti, dated 05.11.2012 and direct the District Munsif cum Judicial Magistrate No.I, Usilampatti, to proceed with the Crl.M.P.No.2727 of 2012 as contemplated under Section 340 Cr.P.C.

For Petitioner : Mr.V.Singan

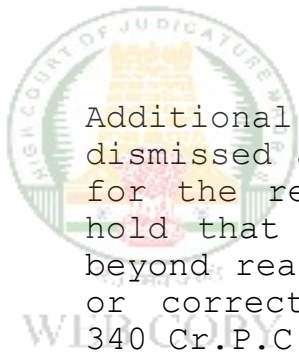
For Respondent : Mr.S.Babu Rajendran

O R D E R

This petition has been filed to challenge the order passed in Crl.A.No.16 of 2014 on the file of the learned V Additional District and Sessions Judge, Madurai, dated 29.08.2017.

2. Heard both sides.

3. It is seen that the respondent lodged the complaint as against the petitioner and the same has been taken cognizance in C.C.No.45 of 2010 on the file of the learned Judicial Magistrate No.I, Usilampatti for the offences under Sections 294(b), 452, 324 and 506(ii) I.P.C. as against the petitioner, and thereafter, she turned hostile before the trial Court stating that the respondent will join with the petitioner. Therefore, the trial Court viz., the learned Judicial Magistrate No.I, Usilampatti, acquitted the petitioner from the charges. Thereafter, the petitioner/husband filed a complaint under Section 340 Cr.P.C. to take action as against the respondent before the jurisdictional Magistrate and the same has been considered, and passed detailed order and dismissed the complaint. As against which, the petitioner again preferred an appeal in Crl.A.No.16 of 2014. before the learned V District



Additional and Sessions Judge, Madurai and the appeal also dismissed and confirmed the order passed by the learned Magistrate, for the reason that the learned Magistrate acquitted the accused, hold that the prosecution failed to prove the guilt the accused beyond reasonable doubt and the Court cannot go into the legality or correctness of the decision in a proceedings under Section 340 Cr.P.C.

4. This Court also finds no illegality or infirmity in the order passed by the Court below., Further, it is seen that the petitioner and the respondent are husband and wife, pending proceedings, the petition filed by the husband on the ground of cruelty, he was already granted divorce, now, they are living separately. At this stage, this Court is not inclined to entertain this petition. Accordingly, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

Ls

To

1.The V Additional District and Sessions Judge,
Madurai.

2.The District Munsif cum Judicial Magistrate No.I,
Usilampatti.

+1 CC to MR.BABU.RAJENDRAN, Advocate (SR-96510[F]dated 06/11/2019)

+1 CC to MR.V.SINGAN, Advocate (SR-96893[F] dated 08/11/2019)

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