

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.604 of 2020
and Crl.M.P.Nos.357 & 359 of 2020

C.Ramasamy,
S/o. Duraisamy,
Ayyarkadu Village,
Marampatti Post,
Uthangarai Taluk,
Krishnagiri District. Petitioner

Vs.

P.Sumathi,
D/o. Palanivel,
11, Sri Sakthi Garden,
Warangattu Thottam,
Villarasampatti Village,
Erod Taluk and District. Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records of the proceeding in connection with M.C.No.45 of 2019 pending on the file of the Family Court, Erode and quash the same.

For Petitioner : No appearance

For Respondent : No appearance

ORDER

This petition has been filed to quash the maintenance case in M.C.No.45 of 2019 on the file of the Family Court, Erode as against the petitioner.

2. It is avert that the petitioner is the husband and the respondent is the second wife of the petitioner herein. The petitioner originally got married with one Pavayee Ammal in the year 1972 and gave birth to a female child in the year 1974. On the instigation of his parents and elders, the petitioner got married the respondent in the year 1995 to have a male child. Thereafter on 10.03.1996, the respondent gave birth to a male child viz., Thennarasu. After the birth of the male child, the respondent herein insisted the petitioner to get divorce from his first wife. While being so, in the year

1996, she left the matrimonial home leaving her 56 days old male child in the agricultural field of the petitioner. Thereafter the petitioner found the child and searched for the respondent herein. Even then, whereabouts of the respondent was not known. After the period of 23 years, now the respondent herein filed this maintenance case before the family Court seeking maintenance.

3. When the respondent voluntarily, with out any reason leave the petitioner in lethargic manner and left somewhere and her whereabouts not known, she is not entitled for any maintenance. It is relevant to extract the Section 125(4) of Cr.P.C., as follows :-

"(4) No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her, husband, or if they are living separately by mutual consent."

Without any specific reasons, the respondent refused to live with the petitioner and left the matrimonial home and also 56 days old male child. Now the petitioner is aged about 70 years and he is suffering with old age ailments. Under these circumstances, the respondent filed this petition for maintenance seeking maintenance. Therefore the impugned maintenance case is nothing but clear abuse of process of law and it cannot be sustained as against the petitioner.

4. Accordingly, this Criminal Original Petition stands allowed and the proceeding in M.C.No.45 of 2019 on the file of the Family Court, Erode, is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rts

To

The Judge, The Family Court,
Erode.

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AJS (CO)
CB(02/11/2020)