

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.22690 of 2016

1.Priya

2.Bhoomika (Minor)

3.Swetha (Minor)

(Minors 2 & 3 are represented by their
mother and natural guardian

Mrs.Priya)

... Petitioners

Vs.

D.Raju @ PNT Raju @ Rajanna

S/o.Late Dasappan

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of Criminal Procedure Code to pass an order directing the learned Family Court of Nilgiris, Udhagamandalam to receive the petition filed under Section 125(3) Cr.P.C by the petitioner dated 28.07.2016 on file and to dispose of the case on merit.

For Petitioners : Mr.J.Franklin

For Respondent : Mr.S.Sathish Rajan

O R D E R

This petition has been filed seeking direction to the Family Court, Nilgiris, Udhagamandalam to entertain the petition filed by the petitioner under Section 125(3) of Criminal Procedure Code.

2. The learned counsel for the petitioner submitted that the 1st petitioner had filed a petition in M.C.No.11 of 2014 before the Judicial Magistrate Court, Nilgiris, Udhagamandalam on 06.12.2013, thereafter, the same was transferred to the file of Family Court, Nilgiris, Udhagamandalam. Since the respondent failed to appear for hearing, an exparte order was passed on 13.2.2015, directing the respondent to pay the maintenance amount of Rs.5,000/- each, to the petitioners, who are the deserted wife and minor daughters of the respondent. However, the respondent had failed to pay the said amount, the petitioners filed a petition under Section 125(3) of Criminal Procedure Code before the Family Court, Nilgiris, Udhagamandalam on 28.07.2016. The learned Judge of the said Court returned the petition for the reason that the address of the respondent is not been provided. Thereafter, the petitioner had represented the petition and the same was returned for the reason the

respondent was not residing within its jurisdiction and hence, the present petition.

3. The learned counsel for the respondent submitted that the Family Court, Nilgiris, Udhagamandalam on its own wisdom had returned the petition filed by the petitioner, for which, the petitioner has no say.

4. Considering the submissions, it is seen that the Family Court, Nilgiris, Udhagamandalam, is the Court functioning under the Family Courts Act, 1984 (hereinafter referred to as the 1984 Act). As per Section 7(f) of 1984 Act, the Family Court has got jurisdiction to try the suit or proceedings for maintenance. Further, as per Sections 7(2) and 10(2) of 1984 Act, it is clearly mentioned that the jurisdiction exercisable by a Magistrate under Chapter IX of Criminal Procedure Code is to be adopted and also as per Section 18(2) of the said Act, empowers, the manner in which the orders to be executed.

5. Thus, the Family Court, Nilgiris, Udhagamandalam has got jurisdiction and powers to entertain the petition filed by the petitioner under Section 125(3) of Criminal Procedure Code and ought not to have return the same. In view of the same, the Family Court, Nilgiris, Udhagamandalam, entertain the petition filed by the petitioner and to pass appropriate orders on merits as contemplated under the Act. Accordingly, this Criminal Original Petition stands disposed of.

The Registry is directed to return the original petition filed under Section 125(3) of Criminal Procedure Code, to the petitioner so as to enable the petitioner to file the same before the Family Court, Nilgiris, Udhagamandalam.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judge,
Family Court,
Nilgiris, Udhagamandalam.
2. The Section Officer,
Criminal Section,
High Court, Madras.

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