

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.10.2020

Coram

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.No.26867 of 2019

and

Crl. MP No.14315 of 2019

R.Shakthivel

-vs-

...

Petitioner

R. Jaya

....

Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to withdraw the Case in MC No.28 of 2017 on the file of learned Judicial Magistrate - II, Kallakurichi, Kallakurichi District to the learned District Munsif cum Judicial Magistrate at Kurinjipadi, Cuddalore District.

For Petitioner : Mrs.R.S.P. Abinayasoorya

For Respondent : No appearance

ORDER

(This case has been heard through video conference)

This Criminal Original Petition has been filed seeking the relief to withdraw the case in MC No.28 of 2017 on the file of the learned Judicial Magistrate – II, Kallakurichi, Kallakurichi District to the learned District Munsif cum Judicial Magistrate at Kurinjipadi, Cuddalore District.

2. Heard the learned counsel appearing for the petitioner. Though notice was served, there is no appearance on behalf of the respondent before this Court.

3. Now, on going through the submissions made by the learned counsel for the petitioner, it seems only due to the medical sufferings, the petitioner is not in a position to attend the Court proceedings at Kallakurichi. Further, she would submit that the respondent is not co-operating for completing the trial proceedings, i.e., the petition mentioned maintenance petition, which filed under Section 125 CRPC. She has conceded that the respondent herein is residing within the jurisdiction limits of the learned Judicial Magistrate - II, Kallakurichi. Accordingly, she prayed this Court to allow the application by Transferring MC No.28 of 2017 from the file of the learned Judicial Magistrate - II, Kallakurichi, Kallakurichi District to the learned District Munsif cum Judicial Magistrate at Kurinjipadi, Cuddalore District.

4. On perusal of averments mentioned in the affidavit, it reveals the fact that the petitioner met an accident in the year 2018 and due to which, he

suffered injuries, resulted in pain at his knee and the same is proved by way of discharge summary, dated 10.11.2017 and medical certificate, dated 03.03.2018 issued by the hospital.

5. In such circumstances, this Court came to the conclusion that the petitioner was suffering from knee problem. Though the petitioner is having knee problem, the petition filed by the respondent herein M.C. No.28 of 2017 under Section 125 CRPC is at the stage of cross examination of PW1. Hence, this Court is of the view that it is necessary to decide the maintenance petition, namely, M.C. No.28 of 2017 only in accordance with the convenience of the wife / respondent herein. Therefore, transfer of the aforesaid M.C. is not necessary for settling the dispute between the petitioner and the respondent and a suitable direction shall be issued to the learned Judicial Magistrate - II, Kallakurichi, Kallakurichi District to dispose of the aforesaid M.C., within a time frame, as stipulated by this Court.

6. The learned Judicial Magistrate - II, Kallakurichi, Kallakurichi District is directed to dispose of M.C. No.28 of 2017, within a period of three months from the date of receipt of a copy of this order, after affording opportunity to both sides.

7. With the above directions, this Criminal Original petition stands disposed of. Consequently, connected miscellaneous petition is closed.

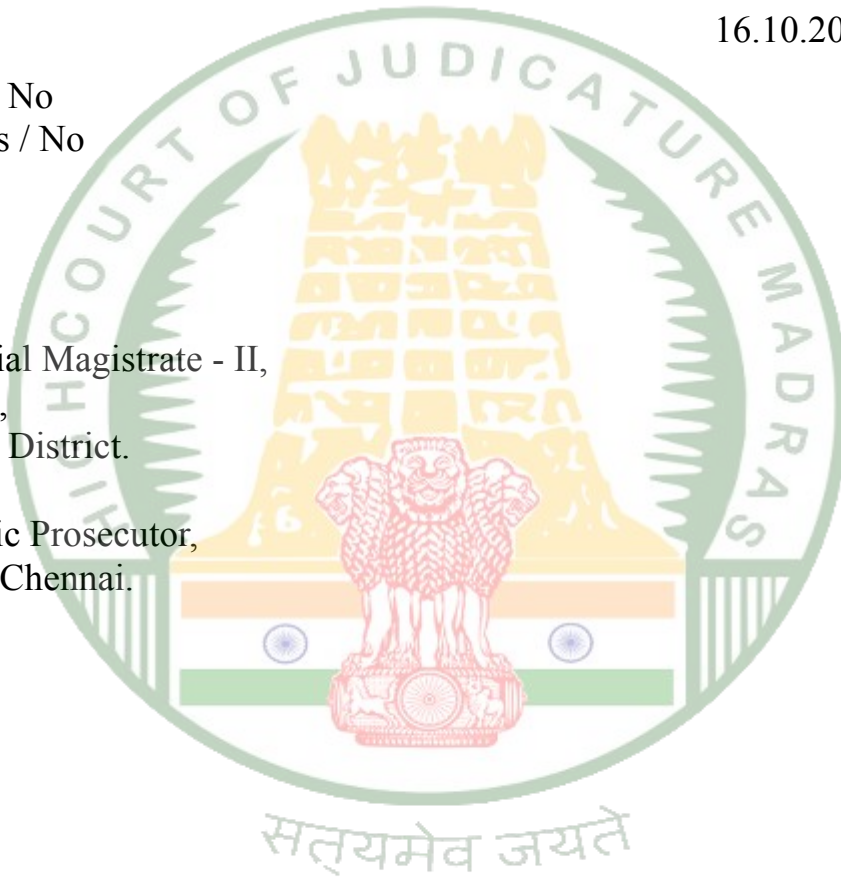
16.10.2020

Index : Yes / No
Internet : Yes / No
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To

1. The Judicial Magistrate - II,
Kallakurichi,
Kallakurichi District.

2. The Public Prosecutor,
High Court, Chennai.



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R.PONGIAPPAN, J.



CrI.O.P.No.26867 of 2019

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16.10.2020