



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P. (MD)No.14790 of 2018

and Crl.M.P. (MD)Nos.6562 & 6563 of 2018

WEB COPY

C.Jothi Lakshmi

... Petitioner

Vs.

V.Muthu Kali

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the entire records relating to the impugned proceedings in M.C.No.11 of 2017 on the file of the learned Judicial Magistrate No.II, Sattur and to quash the same as illegal.

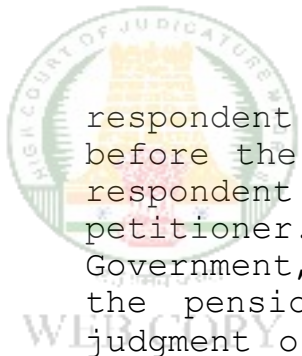
For Petitioner : Mr.M.S.Jeyakarthik
For Respondent : Mr.M.Jothibas

O R D E R

This criminal original petition has been filed seeking a relief to quash the proceeding in M.C.No.11 of 2017 on the file of the learned Judicial Magistrate No.II, Sattur, as illegal.

2.The case of the petitioner is that the respondent herein is the mother-in-law of the petitioner. The respondent has one son and three daughters. In earlier, the petitioner's husband was worked as Assistant Horticulture Officer in Vempakkottai. He voluntarily retired from the service on 31.05.2013 and thereafter, he was died on 14.07.2016 by leaving the petitioner and his daughters as his legal heirs. After the demise of the petitioner's husband, the share belongs to the petitioner's husband, in the property owned by his family were not given to the petitioner. As of now, the entire family properties are in the custody of the respondent and in the hands of her daughter, namely, Meenakshi Ammal. Having suppressed the real facts and circumstances, in order to prevent the petitioner from asking partition, the respondent filed a maintenance petition in M.C.No.11 of 2017 before the learned Judicial Magistrate No.II, Sattur. Now the respondent compelled the petitioner to give share in the pension received by the petitioner. As per the Pension Rules, the husband or wife and minor child alone entitled to get family pension. Under such circumstances, filing petition against the petitioner is in abuse of process of law. At any cost, mother-in-law is not entitled to claim maintenance under Section 125 Cr.P.C., from the daughter-in-law.

3.On the other hand, the learned counsel appearing for the
<https://hcservices.ecourts.gov.in/hcservices/>



respondent would submit that the petition filed by the respondent before the Trial Court is having peculiar character. In fact, the respondent herein not having any income as alleged by the petitioner. Since the petitioner received pension from the Government, the respondent is also entitled to receive portion of the pension. In support of his contention, he relied upon a judgment of the Bombay High Court in a case of **Smt.Saroj Mukkawar Vs. Smt.Chandrakalabai Polshetwar & another** reported in **AIR 2009 (NOC) 2408**.

4.In the above referred case, the Bombay High Court ordered the daughter-in-law to pay maintenance only because of the reason that the daughter-in-law in the above referred matter is ready to give maintenance. But, here is the case, the petitioner/daughter-in-law is refused to pay maintenance. Hence, the only issue to be resolved in this matter is, the mother-in-law/respondent is entitled to claim maintenance from the daughter-in-law under Section 125 of Cr.P.C., or not.

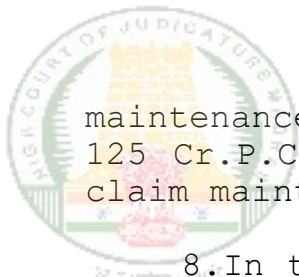
5.In this regard, the Hon'ble Supreme Court in a case of **Kirtikant D.Vadodaria Vs. State of Gujarat** report in **(1996) 4 SCC 479** has held that the expression 'mother' clearly means only the natural mother who has given birth to the child and not the one who is the wife of one's father by another marriage.

6.Further, in a judgment of Madhya Pradesh High Court in a case of **Peddakka Vs. M.Kondamma** dated 01.12.2015, it was held as follows:

"A bare perusal of section 125 of Cr.P.C. makes it abundantly clear that a mother-in-law cannot claim any right of maintenance thereunder against her daughter-in-law. So far as the right against the grandsons are concerned, it can be enforced only if the grandmother has no sons or daughters alive. If sons and daughters are alive, she would be entitled to claim maintenance from them under clause (d) Sub-Section (1) of Section 125 of the Code of Criminal Procedure; thus, where a grandmother has living daughters, she cannot claim maintenance from grandsons.

As already observed in the case at hand that the applicant Peddakka has three daughters alive and she is already living with one of them, namely Ishwari Yadav. If she is not being properly maintained by her daughters, she is entitled to claim maintenance from them; however, during the life time any of them, she has no claim for maintenance under Section 125 of the Code of Criminal Procedure against her grandsons."

7.Therefore applying the principles already set out by the various High Courts and the Hon'ble Supreme Court, the statute is very clear that the mother-in-law is not entitled to claim



maintenance from her daughter-in-law under the provisions of Section 125 Cr.P.C. Accordingly, the respondent herein is not entitled to claim maintenance from the petitioner.

8.In the result, this criminal original petition is allowed and the proceedings in M.C.No.11 of 2017 on the file of the learned Judicial Magistrate No.II, Sattur is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

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/ /2020

Sub Assistant Registrar(CS)

Gns

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Judicial Magistrate No.II,
Sattur.

+1 CC to M/s.M. JOTHI BASU, Advocate (SR-13878[F] dated 12/08/2020)

+1 CC to M/s.M.S. JEYAKARTHIK, Advocate (SR-13918[F] dated 12/08/2020)

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SPU(24.08.2020) 3P 4C