



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2020

CORAM:

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.12279 of 2016

and

Crl.M.P. (MD)No.5815 of 2016

Mariappan ... Petitioner/Respondent

-vs-

1.Maheswari

2.Shakthi Subhalika

... Respondents/Complainants

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for the complaint bearing M.C.No.60 of 2015 on the file of the learned Chief Judicial Magistrate, Tiruchirappalli and quash the same.

For Petitioner : Mr.M.Jegadeesh Pandian

For Respondents : Mr.C.Vakeswaran

O R D E R

The respondents herein filed M.C.No.60 of 2015 on the file of the Chief Judicial Magistrate, Trichy under Section 125 of Cr.P.C, seeking maintenance. To quash the said proceedings, this Criminal Original Petition has been filed.

2.It is not in dispute that the first respondent is the legally wedded wife of the petitioner and the second respondent is the child born through the said marriage. The allegation of the petitioner is that, the first respondent herein is leading a adulterous life and that he has already filed H.M.O.P.No.116 of 2010 seeking divorce. The divorce petition filed by the petitioner is still pending.

3.The petitioner can raise all his defences before the Court below. It is not possible to quash the maintenance case itself at the threshold. More than anything else, the second respondent herein is the daughter born through the wedlock between the petitioner and the first respondent. Even if the allegation made by the first respondent/wife is true, still the second respondent cannot be deprived of the right to be maintained.

4.Looking at from any angle, it is a matter for contest before
<https://hcservices.ecourts.gov.in/hcservices/>



the Court below and invocation of Section 482 of Cr.P.C., is wholly misplaced. Leaving open the petitioner's rights and defences, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pnn

To

The Chief Judicial Magistrate, Tiruchirappalli.

+1 CC to M/s.C.VAKEESWARAN, Advocate (SR-3506[F] dated 28/01/2020)

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JMN(13.02.2020) 2P : 3C