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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2021

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

CRL.O.P.NO.21454 OF 2015
AND
CRL.M.P.NOS.1 & 2 OF 2015

S.Arumugam .. Petitioner/Respondent

Vs.

B.Sathiya @ Sathiya Bala ...Respondent/Petitioner

Prayer:

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in M.C.No. 1 of 2015 on the file of the learned Judicial Magistrate No.1, Poonamallee and quash the same.

For Petitioner : Mr.R.Karthikeyan

For Respondent : No appearance

ORDER

Heard Mr.R.Karthikeyan, learned counsel for the petitioner.

2. Notice had been directed even much earlier to the respondent and proof of service has been filed. Unfortunately, there is no appearance on behalf of the respondent. But in view of the facts as stated by the learned counsel for the petitioner and also in view of the affidavit filed by the petitioner herein, I hold that no purpose will be served by keeping on board the present Criminal Original Petition.

3. The present Criminal Original Petition has been filed under Section 482 Cr.P.C., seeking to quash further proceedings in M.C.No. 1 of 2015 pending on the file of the learned Judicial Magistrate No.1, Poonamallee.

4. The petitioner is the husband and the respondent was his wife. They married on 14.09.1999 and a daughter was born on 20.11.2020. Subsequently, H.M.O.P.No. 262 of 2009 came to be filed seeking to declare that the marriage was a nullity. This was filed before the Principal Sub Court at Erode. Divorce was

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granted after hearing both the sides on 30.01.2010.

5. It is the case of the petitioner that during such proceedings, the respondent had very categorically stated that she was not claiming any maintenance from the petitioner herein. Thereafter, the respondent appears to have filed M.C.No. 1 of 2015 before the learned Judicial Magistrate No.1, Poonamallee, seeking maintenance. A learned Single Judge of this Court had directed that the petitioner herein should deposit a sum of Rs.5,000/- as interim maintenance for the daughter on or before 5th of every English Calendar Month to the credit of M.C.No. 1 of 2015 and on such deposit, the respondent was also stated to be entitled to withdraw the same.

6. These facts have also been reduced in writing by the petitioner herein by filing an affidavit dated 15.09.2021 and filed in Court on 17.09.2021. The petitioner after stating the facts, had stated as follows:-

> "4. The petitioner submits that he had approached this Hon'ble Court praying for quashing the proceedings in M.C.No. 1 of 2015 and this Hon'ble Court while staying the proceedings, has directed the petitioner to pay a sum of Rs.5,000/- to the daughter of the petitioner herein and petitioner herein is also complying with the same till date. The petitioner herein undertakes to pay the said maintenance to his daughter Joyshree (DOB 03.11.2000) till her marriage as per S. 125 Cr.P.C."

7. In view of the categorical undertaking by the petitioner herein to pay the maintenance amount to his daughter till her marriage, I hold that keeping M.C.No. 1 of 2015 on the file of the learned Judicial Magistrate No.1, Poonamallee and this Criminal Original Petition on the file of this Court would be a futile exercise and therefore, on recording the undertaking by the petitioner herein, M.C.No. 1 of 2015 is hereby quashed.

8. Needless to point out, the respondent herein will have every opportunity and is granted liberty to approach this Court at any point of time if there is breach of the undertaking given by the petitioner herein to pay the maintenance of Rs.5,000/- to the daughter.

9. The modality in which the amount is to be paid is also modified, namely, that the petitioner herein may directly pay the amount to the daughter, who would now in a few months time be 22 years of age. He may alternatively open a bank account and credit Rs.5000/- in to that particular account and handed

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over the total amount with interest at the time of the marriage of the daughter. The petitioner may take either one of the two options instead of depositing the amount to the Magistrate Court and thereafter, the respondent withdrawing the same.

10. With the above said observation, this Criminal Original Petition is allowed and M.C.No.1 of 2015 on the file of the learned Judicial Magistrate No.1, Poonamallee, is quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsg

To

The Judicial Magistrate No.I,
Poonamallee.

+1cc to Mr.R.Karthikeyan, Advocate, S.R.No.47937

Crl.O.P.No.21454 of 2015
And
Crl.M.P.Nos.1 & 2 of 2015

PL(CO)
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