

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2021

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Crl.O.P.No.30194 of 2015andMP No.1 of 2015

Mr.Madan Mohan

...Petitioner

Vs.

Mrs.Kamaleswari

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to impugned order dated 30.10.2015 passed by the learned Judicial Magistrate, Ambattur, in C.M.P No.3757 of 2015 in D.V.No.23 of 2014 and set aside the same and consequently, allow the petition filed by the petitioner in CMP No.3757 of 2015 in D.V.No.23 of 2014 under Section 311 of Cr.PC for seeking permission to recall the evidence of the petitioner.

For Petitioners

: Mr.V.L.Nehru

For Respondent

: Mr. P.P.Shanmuga Sundaram
for Mr.B.Singaravelu

ORDER

This Criminal Original petition has been filed to quash the impugned order dated 30.10.2015 passed by the learned Judicial Magistrate, Ambattur, in C.M.P No.3757 of 2015 in D.V.No.23 of 2014 and set aside the same and consequently, allow the petition filed by the petitioner in CMP No.3757 of 2015 in D.V.No.23 of 2014 under Section 311 of Cr.PC for seeking permission to recall the evidence of the petitioner.

2. The petitioner is facing trial before the Court below in the Domestic Violence proceedings initiated by the respondent. While so, the trial Court had passed an order dated 30.10.2015 in the interim maintenance application directing the petitioner herein to pay Rs.30,000/- per month towards interim maintenance for his wife and their children and also directing to pay Rs.1,50,000/- as education expenditure for his two son, after deducting the amount, which was already paid by the petitioner.

At that stage, the petitioner herein filed an application under Section 311 of Cr.PC to re-open the evidence of the respondent, for the purpose of marking two documents. The respondent /wife opposed the said petition on the ground that the documents have no relevance to the case and the same is inadmissible in evidence.

3 The Court below dismissed the petition on the ground that the petition cannot be opposed at the threshold and that the petitioner can always object to it at the time when the document is actually marked.

4 Heard the learned counsel for the petitioner and perused the materials available on record.

5 This Court does not find any illegality or infirmity in the order passed by the Court below. The order of the Court

below does not prevent the petitioner from questioning the relevancy, proof and admissibility of the documents, sought to be marked as Additional documents. That right has been left open to the petitioner. Therefore, the petitioner can always object to the marking of the documents and the Court will decide regarding the same, at the appropriate time.

6. In the result, the Criminal Original petition is dismissed and the Court below is directed to complete the D.V.C.No.23 of 2014, as expeditiously as possible, in accordance with law. Consequently, the connected miscellaneous petition is also closed.

सत्यमेव जयते

17.06.2021

Index: Yes / No

Speaking order/Non-speaking order

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To

1. The Judicial Magistrate, Ambattur,
2. The Additional Public Prosecutor,
High Court of Madras,
Chennai.



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V.BHAVANI SUBBAROYAN.,J

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