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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

CORAM

THE HON'BLE MS.JUSTICE R.N.MANJULA

CRL.O.P.NO.8891 OF 2019

AND

CRL.M.P.NO.4759 OF 2019

Babu ... Petitioner/Respondent

.Vs.

Mahalakshmi ... Respondent/Petitioner

PRAYER:-

This Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, praying to set aside the order dated 02.02.2019 passed in C.R.P.No. 25 of 2018 by the Learned Principal District and Sessions Judge, Vellore, dismissing the said Criminal Revision and thereby confirming the Order dated 02.08.2018 passed in Crl.M.P.No.1279 of 2018 in M.C.No.3 of 2018 by the Learned Judicial Magistrate No.1, Vellore.

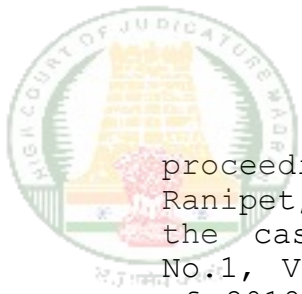
For Petitioner : Mr.Arun Anbumani

For Respondent : No appearance

O R D E R

This petition has been filed under Section 482 Cr.P.C, for setting aside the order dated 02.02.2019 passed by the Learned Principal District and Sessions Judge, Vellore, in C.R.P.No.25 of 2018 by dismissing the said Criminal Revision Petition and thereby confirming the Order dated 02.08.2018 passed by the Learned Judicial Magistrate No.1, Vellore, in Crl.M.P.No.1279 of 2018 in M.C.No.3 of 2018.

2. The petitioner is the husband against whom the respondent has filed a Maintenance Case before the learned Judicial Magistrate, Ranipet, in M.C.No.18 of 2015. On the point of jurisdiction, the case was transferred to Judicial Magistrate No.I, Vellore, and reassigned with M.C.No.03 of 2018. When the



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proceedings were pending before the Judicial Magistrate, Ranipet, the petitioner was set ex parte on 31.10.2017. After the case was transferred to the Learned Judicial Magistrate No.1, Vellore, the petitioner filed a petition in C.M.P.No.1279 of 2018, for setting aside the ex-parte order and the same was dismissed by the learned Judicial Magistrate-I, Vellore. Challenging the same, the petitioner has preferred a petition in CRP.No.25 of 2018 before the Principal District and Sessions Court, Vellore, and the learned Principal Sessions Judge by an order dated 02.02.2019 confirmed the order of the learned Judicial Magistrate-1, Vellore and dismissed the Petition. Challenging the above said order, this Criminal Original Petition has been filed.

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

4. The learned counsel for the petitioner would submit that the petitioner being the respondent in the Maintenance Case, was making his appearance regularly except few hearings. He further submitted that even when he was ready for cross-examination, he could not cross-examine her, due to her absence. It is learnt that the Maintenance Case is still pending without any orders due to stay order passed in this Criminal Original Petition.

5. On perusal of the records, it is seen that the respondent/wife has not been awarded with any interim maintenance. Under such circumstances, in the interest of the justice, I am inclined to allow this petition in order to make it convenient for the petitioner to participate in the proceedings.

6. In the result, the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed. The order passed by the learned Principal District and Sessions Judge, Vellore, in C.R.P.NO.25 of 2018, dated 02.02.2019, confirming the order passed in Crl.M.P.No.1279 of 2018 in M.C.No.3 of 2018, dated 02.08.2018, is hereby set aside. The learned Judicial Magistrate-1, Vellore, is directed to dispose of the M.C.No.3 of 2018 within in two months.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Pns



To

1. The Learned Principal District
and Sessions Judge,
Vellore.
2. The Learned Judicial Magistrate No.1,
Vellore.

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+1cc to Mr.Arun Anbumani, Advocate, S.R.No.56045

CRL.O.P.NO.8891 OF 2019 AND
CRL.M.P.NO.4759 OF 2019

AD(CO)
PBS/19/11/2021