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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.O.P.NO.23228 OF 2019

AND

CRL.M.P.NO.12188 OF 2019

Yasmeen

... Petitioner

.Vs.

G.S.Rajeshkumar (Minor)

... Respondent

Rep. By his Natural Guardian

By his father Mr.Shanmugasundaram

PRAYER:-

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to M.C.No.26 of 2018, pending on the file of the V Additional Family Court, Chennai and quash the same.

For Petitioner : Mr.R.Nasrine

For Respondent : No appearance

O R D E R

This petition has been filed to quash the maintenance case in M.C. No. 26 of 2018, pending on the file of the V Additional Family Court, Chennai.

2. The facts of the case are as follows:

The petitioner is the mother and the respondent is her minor son. The petitioner and one Shanmugasundaram, who is the guardian of the respondent, are wife and husband and their marriage was solemnized on 09.07.2008 at Thiruverkadu Temple and they belong to different religion. Out of the wedlock, the respondent was born during the year 2009. Due to misunderstanding between the couples, they were living separately. The respondent's father filed a maintenance case against the petitioner before the Family Court, Chennai claiming



a sum of Rs.15,000/- per month as maintenance, which was taken on file in MC.No.26 of 2018 and the same is pending. For quashment of the said maintenance case, the present petition has been filed before this court.

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3. The learned counsel for the petitioner submitted that as a dutiful wife, the petitioner has taken care of his husband and child. During the year 2013, she got an employment in Government service as Office Assistant. After getting a job, the husband started harassing the petitioner by suspecting her fidelity and character and abused her continuously. Hence, the petitioner left the matrimonial home and living in her parental home. To wreck vengeance on the petitioner, the husband filed a maintenance case by using the respondent's name. The petitioner is serving as an Office Assistant, she received very meager amount as salary. But the respondent is having sufficient means to maintain the child. However, the respondent has filed a maintenance case against the petitioner, which is not maintainable under Section 125 of Cr.P.C. Hence, the learned counsel prays to allow this petition.

4. Though Notice has been served on the respondent, none appeared before this Court either in person or through counsel.

5. Heard the learned counsel for the petitioner and perused the materials available on records.

6. It is not in dispute that the petitioner herein is the mother and respondent is her child and the petitioner and her husband are living separately due to misunderstanding. The respondent is under the care and custody of his father/guardian. The petitioner has filed a divorce petition before the Family Court and the same is pending for consideration. That being the case, the respondent's father filed a maintenance case before the Family court and the same is also pending. Admittedly, the petitioner is employed.

7. This Court perused the maintenance petition filed by the respondent before the Court below. It is seen from the petition that the petitioner and the respondent father got intercaste marriage/special marriage and the petitioner got an employment in Government service under the Special Marriage Quota. After getting job, the petitioner has not taken care of her husband and child. Due to misunderstanding between the spouses, she left the matrimonial house and living separately. The respondent father is working as coolie and he is not in a position to maintain his son viz., the respondent.

8. Considering the facts and circumstances of the case, this Court, without expressing any opinion on the merits of the case,



directs the learned V Additional Judge, Family Court, Chennai to dispose of the case within a period of three month from the date of receipt of a copy of this order.

9. In the result, the Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rli

To

The V Additional Judge,
The Family Court,
Chennai.

CRL.O.P.NO.23228 OF 2019 AND
CRL.M.P.NO.12188 OF 2019

SVI (CO)
PBS/03/12/2021