



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.Nos.26586 of 2018 and 25368 of 2019
and Crl.M.P.Nos.15312 of 2018 and 13552 of 2019

Suman @ Suman Menon ... Petitioner in both the petitions

Vs.

1.G.Jayashree

2.Minor Devika Menon
Rep. by her mother/1st Respondent
G.Jayashree

... Respondents in both the petitions

Prayer in Crl.OP.No.26586 of 2018: This Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order dated 11.09.2018 passed by the learned Additional Principal Judge, Principal Family Court, Coimbatore in CMP.No.51 of 2016 in M.C.No.103 of 2015.

Prayer in Crl.OP.No.25368 of 2019: This Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order dated 16.08.2019 passed by the learned Additional Principal Judge, Principal Family Court, Coimbatore in M.C.No.103 of 2015 in respect of striking down the question of jurisdiction as irrelevant.

For Petitioner : M/s.L.Mouli (In both the cases)

For Respondents: M/s.Udaya P.S.Menon (In both the cases)

COMMON ORDER

Crl.OP.No.26586 of 2018 has been filed to set aside the order dated 11.09.2018 passed by the learned Additional Principal Judge, Principal Family Court, Coimbatore in CMP.No.51 of 2016 in M.C.No.103 of 2015.

2. Crl.OP.No.25368 of 2019 has been filed to set aside the order dated 16.08.2019 passed by the learned Additional Principal Judge, Principal Family Court, Coimbatore in M.C.No.103 of 2015 in respect of striking down the question of jurisdiction as irrelevant.



3. The case of the petitioner is that the petitioner and the first respondent are the husband and wife and the second respondent is their daughter. The marriage between the petitioner and the first respondent was solemnized on 13.12.2009 as per Hindu rites and custom at Alakapuri Guest House, Calicut. After marriage, the petitioner and the first respondent were living in Gurgaon (Haryana) till 2010 and thereafter, they shifted to Bangalore. While at Bangalore, a dispute was arose between them, due to which, the first respondent left the matrimonial home. After two and half years, the first respondent filed two applications one under Protection of Women from Domestic Violence Act, in DVA.No.19 of 2015 before the learned Judicial Magistrate-I, Coimbatore and another seeking maintenance under Section 125 of Cr.P.C. in MC.No.103 of 2015 before the Family Court, Coimbatore, seeking a monthly maintenance of Rs.25,000/- each to the first respondent and the minor child. In the meanwhile, the first respondent filed a petition under Section 125(3) of Cr.P.C. in CMP. No.51 of 2016 seeking interim maintenance of Rs.50,000/- and Rs.7,500/- as litigation expenses and the same taken on file in CMP.No.51 of 2016 in MC.No.103 of 2015. The trial Court was allowed the petition in part and the husband was directed to pay a sum of Rs.5000/- to the wife towards litigation expenses and further the husband was directed to pay a sum of Rs.12,500/- per month to the wife and minor daughter towards interim maintenance till the disposal of the maintenance case. Challenging the same, CrI.OP.No.26586 of 2018 has been filed before this Court.

4. In the meanwhile, during the cross examination of the first respondent herein in the maintenance case in MC.No.103 of 2015, the learned counsel for the petitioner had cross examined the first respondent in respect of jurisdiction. But the learned Judge struck down such questions as irrelevant on the ground that the question has already been decided in CMP.No.127 of 2016. Challenging the said striking down of the question, CrI.OP.No.25368 of 2019 has been filed before this Court.

5. Since the issue involved in both the matters and the facts are one and the same, both the petitions are disposed of by way of a common order.

6. The learned counsel for the petitioner submitted that on instructions that the petitioner is ready to pay a sum of Rs.12,500/- as interim maintenance in the name of the *** 2nd Respondent** from the date of petition till September 2021. The learned counsel further submitted that without going into the merits of the case, this Court may permit the parties to raise all the grounds before the trial Court by setting aside the order dated 16.08.2019 in respect of striking down the question of jurisdiction.



7. The learned counsel for the respondents have not raised any objection to the prayer as sought for by the petitioner.

8. The grounds raised by the learned counsel for the petitioner are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. It is left open to the petitioner to raise all the grounds before the Court below and the same shall be considered on its own merits and in accordance with law.

9. This Court, without going into the merits of the case, passes the following order:

a) The petitioner is directed to deposit a sum of Rs.12,500/- (Rupees Twelve thousand five hundred only) from the date of petition till the month of September 2021, less the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this order.

b) Further, the petitioner is directed to pay the monthly maintenance regularly to the *** 2nd Respondent** as ordered by the Family Court on or before 5th day of every English Calendar month without any default.

c) The respondents are permitted to withdraw the said award amount deposited by the petitioner before the trial Court, after filing an appropriate application before the trial Court; and

d) The learned Judge, Family Court striking down the question of jurisdiction in MC.No.103 of 2015 dated 16.08.2019 is set aside.

10. With the above directions, Crl.OP.No.25368 of 2019 is allowed and Crl.OP.No.26586 of 2018 is disposed of. Consequently, connected miscellaneous petitions are also closed.

s/d-

Assistant Registrar(CS IV)

dated : 20.10.2021

*** Corrected as per the order
of this Court for Being Mentioned
dated 25.11.2021 made in Crl.OPs.26586/2018
& 25368/2019**

s/d-

Assistant Registrar(CS IV)

dated : 03.01.2022

True Copy

Sub-Assistant Registrar



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To

1.The Additional Principal Judge,
Family Court, Coimbatore.

Substituted order copy to be
Issued already despatched on
22.11.2021

+2 CCs to Mr.L. Mouli, Advocate sr 44496 & 44497

+1 CC to Mr.V. Vijaya Kumar, Advocate sr 44664.

Crl.O.P.Nos.26586 of 2018 and 25368 of 2019
and Crl.M.P.Nos.15312 of 2018 and 13552 of 2019

GSM(CO)
SP(28/10/2021)
PR(03/01/2022)