



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.30395 of 2018

And

Cr1.M.P.No.17908 of 2018

1.Karpagam

2.Kanimozhi

(Rep. by Guardian Mother Karpagam)

... Petitioners

Vs.

Prakash

... Respondent

Prayer: Petition filed under Section 482 of Cr.P.C., seeking to set aside the order dated 05.09.2018 in Criminal Revision Petition No.8 of 2017 passed by the Additional District and Sessions Court (Fast Track) Arni, Tiruvannamalai District and uphold the order of maintenance passed by the Judicial Magistrate, Cheyyar in M.C.No.10 of 2014 dated 11.07.2016.

For Petitioners : Mr.V.R.Appaswamee

For Respondent : Mr.P.Mani

O R D E R

The petitioners have filed this petition seeking to set aside the order dated 05.09.2018 in criminal revision petition No.8 of 2017 passed by the Additional District and Sessions Court (Fast Track) Arni, Tiruvannamalai District and uphold the order of maintenance passed by the Judicial Magistrate, Cheyyar in M.C.No.10 of 2014 dated 11.07.2016.

2.The first petitioner is the wife of the respondent and the second petitioner is their daughter. The facts of the case is that the first petitioner is from Adi Dravidar Community and the respondent is from Vanniyar Community and when the first



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petitioner went for work in the land belonging to the respondent, they started loving each other and had physical relationship before marriage and since the respondent refused to marry her, the first petitioner lodged complaint before the law enforcing agency on 14.05.2008 and thereafter their marriage was solemnized on 16.05.2008 at Arulmigu Pavadaimoorthy Vinayagar Subramaniya Swamy Thirukoil at Cheyyar Town and the said marriage was registered at the Sub-Registrar Office, Cheyyar and the second petitioner was born on 22.11.2008.

3.Since the first petitioner and respondent belong to different communities, the relationship between them was not accepted by the respondent's family members and they were living separately. Since the first petitioner was not able to maintain herself and the second petitioner, she filed M.C.No.10 of 2014 before the learned Judicial Magistrate, Cheyyar, seeking maintenance of a sum of Rs.7,500/- each per month and after adjudication, the Trial Court awarded a sum of Rs.4,000/- each per month towards maintenance in favour of the petitioners. Aggrieved by the same, the respondent filed Criminal Revision Petition No.8 of 2017 before the Additional District and Sessions Court (Fast Track) Arni and the lower Appellate Court after adjudication allowed the said revision. Aggrieved by the same, the petitioners have filed this petition.

4.The learned counsel appearing for the petitioners submitted that the first petitioner clearly established the marriage by marking photographs taken at the time of marriage and the marriage registration certificate, however, the lower Appellate Court without considering the same simply set aside the order of the Trial Court as if the marriage was solemnized under coercion and threat, which is non est in law.

5.The learned counsel appearing for the respondent submitted that the marriage was not established before the Trial Court and mere marking of the marriage registration certificate is not sufficient to prove the marriage. The learned counsel further submitted that the respondent is ready for conducting DNA Test to prove that he is not the biological father of the second petitioner and further submitted that since the respondent belong to higher community, in order to grab money from the respondent, the first petitioner filed the maintenance case.



To

1.The Additional District and Sessions Court (Fast Track) Arni,
Tiruvannamalai District

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2.The Judicial Magistrate,
Cheyyar.

3.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+2CCs to M/s.V.R.Appaswamee, Advocate, SR.No. 49879

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And

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GPL(CO)

B.VC (18/10/2021)