



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Monday, the Twenty Third day of August Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) . No.1960 of 2021
in
CRL OP(MD.No. 9123 of 2019

1. Bose
2. Devika Rani
3. B.Renuga Devi
4. Chitra Selvi
5. S.Jeya Kumar

... Petitioners/Petitioners

Vs

Ramya

... Respondent/Respondent

Prayer in CRL MP(MD) . No.1960 of 2021:-

This petition filed under Section 482 of Cr.P.C., Praying this court to relax the condition imposed on the petitioner the order dated 30/09/2019 made in Crl.O.P.(MD) NO.9123 of 2019 (ie. These petitioners shall ensure that the Al/husband of the respondent shall deposit a sum of Rs.5,000(Rupees Five Thousand Only) before 5th of every calender month to the credit if D.V.C. NO. 18 of 2019 on the file of the learned Judicial Magistrate No.1, Tirunelveli.)

Prayer in CRL OP(MD) . 9123/ 2019 :-

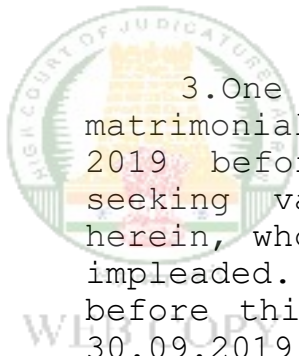
This petition filed under Section 482 of Cr.P.C., praying this Court to call for the records in the case in D.V.C.No.18 of 2019 on the file of the Judicial Magistrate Court No.I, Tirunelveli and quash the same against the petitioners as illegal, arbitrary, violation of law.

ORDER:- This Petition coming on for hearing on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.V.Kannan, Advocate for the Petitioner and the respondent was not appeared either in person or by an Advocate, this Court made the following order:

This petition is filed seeking modification or relaxation of the order passed by this Court in Crl.O.P.(MD) No.9123 of 2019.

2.The brief facts are as follows:-

<https://hcservices.ecourts.gov.in/hcservices/>



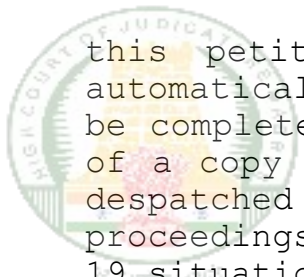
3. One Raja is the husband of the respondent herein. Due to the matrimonial dispute between them, the respondent moved DVC.No.18 of 2019 before the learned Judicial Magistrate No.1, Tirunelveli seeking various reliefs. In that proceedings, the petitioners herein, who are the in laws of the respondent herein, have also been impleaded. They moved a petition in Crl.O.P.(MD) No.9123 of 2019 before this Court seeking quashment. That petition was allowed on 30.09.2019. However, a direction has been issued to the petitioners to ensure that the husband of the respondent herein, namely, Raja shall deposit a sum of Rs.5,000/- as maintenance on or before the 5th day of every English Calendar month to the credit of DVC.No.18 of 2019.

4. It is also observed that if the same is not observed or followed, the order shall stand automatically cancelled. A further direction was also issued to the concerned Court to complete the enquiry process within a period of six months. Seeking relaxation of the aforesaid order, this petition is filed on the ground that because of the inability on the part of the 1st accused, the petitioners 1 and 2 with much difficulty paid the amount till date and the trial has not at all been completed even after the expiry of 15 months.

5. The respondent is working as Clerk in Indian Bank and getting a monthly salary. She has not made any petition seeking maintenance under Section 125 of the Code of Criminal Procedure. The husband is working in a private school and only his parents, namely, the petitioners 1 and 2 are spending money. Since on merits the respondent is not entitled for maintenance, she has sufficient income to maintain herself. Since more than 22 months expired, the order must be modified.

6. In spite of the best efforts, the respondent herein even though served did not appear before the concerned Court and no one appeared for him also. After hearing the counsel for the petitioners, the order has been passed. It is very unfortunate that instead of the husband of the respondent moving such a petition for modification or relaxation or cancellation, the parents of the 1st accused, who are the in laws of the respondent, have moved this petition for modification or relaxation, as the case may be. On the face of it, it is seen that it has been initiated only by the husband and not by this petitioners. In other words, this petition has been filed only at the instance of the husband. Such a petition with an ulterior hidden idea or motive cannot be entertained by this Court. So, this is the 1st defect, which is available in this petition against this petitioners.

7. What has been observed in Crl.O.P.(MD) No.9123 of 2019 is that the petitioners herein must ensure the payment of Rs.5,000/- as monthly maintenance to the wife on or before the 5th day of every English Calendar month. If any failure is noticed on the part of



this petitioners to ensure the payment, the order shall stand automatically cancelled. It is further directed that the trial must be completed within a period of six months from the date of receipt of a copy of that order. Even though a copy of the order has been despatched to the concerned Court, it appears that so far the trial proceedings were not concluded apparently due to the present COVID-19 situation.

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8.Now, whatever it may be, the delay in concluding the proceeding cannot be taken advantage by the petitioners to overcome the order that has been passed by this Court. The fact that the respondent is working as a staff or Clerk in a nationalised bank, for which, the photo copy of the ID card has been produced by the petitioners cannot be taken into account in this petition. If at all only the husband can move the petition for cancellation or modification as the case may be, as I mentioned earlier, this is highly a motivated petition instigated by the husband, namely, Raja. So, such an approach as I mentioned earlier cannot be entertained by this Court.

9.Moreover, in a recent judgment of this Court in a batch of Criminal Original Petitions dated 18.01.2021, CrI.O.P.(MD) Nos.28458 of 2019 etc., batch, it has been directed that the petition filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 must be completed within a period of 3 months from the date of petition. It is also seen that a circular to this effect is going to be issued to the Judicial Officers in the State of Tamilnadu.

10.In such circumstances, this petition has now become infructuous and in view of the aforesaid development, this petition deserves to be dismissed and accordingly, the same is dismissed. The trial Court, by complying with the aforesaid order passed in a batch of Criminal Original Petitions dated 18.01.2021, CrI.O.P.(MD) Nos.28458 of 2019 etc., batch, is directed to complete the trial proceedings in DVC.No.18 of 2019 within a period of 3 months. After that, compliance report must be submitted to the Registry. Till the completion of the proceedings as directed in CrI.O.P.(MD) No.9123 of 2019, the petitioners shall ensure the payment of maintenance of Rs.5,000/- by the husband of the respondent.

Sd/-

Assistant Registrar (CS-II)

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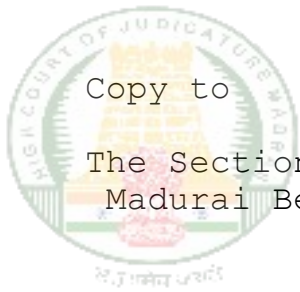
/ /2021

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate No.1, Tirunelveli.

<https://hcservices.ecourts.gov.in/hcservices/>



Copy to

The Section Officer, Criminal Section
Madurai Bench of Madras High Court, Madurai

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ORDER DATED : 23/08/2021

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ORDER

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CRL MP (MD). No.1960 of 2021
in

CRL OP (MD.No. 9123 of 2019

Giving direction and etc.
as stated within.

KB(31.08.2021) 4P 2C