



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2021

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P. (MD)No.11924 of 2017 and

Crl.M.P(MD)No.8198 of 2017

WEB COPY

Sharavanan

... Petitioner/Respondent

Vs.

1.Muthu Lakshmi

2.Somuktha (Minor)

3.Nikitha (Minor)

(Respondents 2 and 3 are represented by their mother
and natural guardian 1st respondent).

... Respondents/Petitioner

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the proceedings in M.C.No.18 of 2016 on the file of the Judicial Magistrate, Thirumangalam, and quash the same.

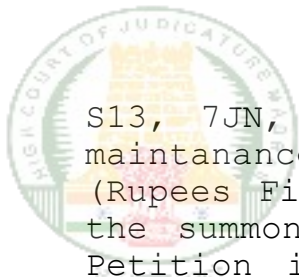
For Petitioner	: Mr.K.P.Narayanakumar
For Respondents	: No Appearance

ORDER

Heard the learned counsel appearing for the petitioner. There is no representation on behalf of the respondents. The reason is very obvious.

2.The first respondent is residing at London and it appears that after filing the maintenance petition before the Judicial Magistrate Court, Thirumangalam, she has left to London and also remarried one Marisamy and gave birth to a female child on 12th December, 2018. The maintenance claim petition, which was filed on 17.09.2016 indicates that the petitioner and the first respondent herein got married on 27.05.2001 at Tirunelveli. The petitioner was working as a Software Consultant at London. Therefore, soon after the marriage, he has left India and they settled their marital home at London. Two female children were born to them in the year 2002 and 2008. Thereafter, there was a change in the attitude of the petitioner, as a result, it became a frequent affair for the petitioner to send the first respondent to her parental home at India and after mediation by the elders, they used to join but in the year 2012, the situation went worst which has lead the first respondent to leave the matrimonial home along with her two female children and got the help of Women Aid and Child Maintenance Service Team at London.

3.Claiming that he is presently residing at Tirunelveli and permanently residing at No.225, London Road, Slough Berkshire,
<https://hcservices.ecourts.gov.in/hcservices/>



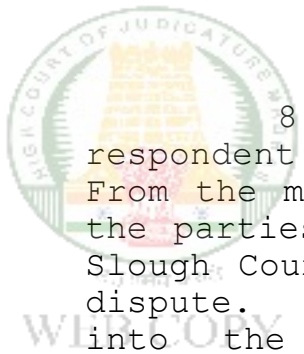
S13, 7JN, United Kingdom, the present petition is filed seeking maintenance at 5,000 pounds which is equivalent to Rs.5,00,000/- (Rupees Five Lakh only) Indian rupees. Soon after the receipt of the summons in the claim petition, the present Criminal Original Petition is filed by the petitioner / husband stating that the first respondent failed in her attempt before Slough Country Court of London, however, he is continuously paying maintenance to the children at 3000 pounds per month till date. Only to harass him the maintenance petition is filed showing her address at Thirumangalam though she and the children live in London.

4.Further, the first respondent, who is the first petitioner in M.C.No.18 of 2016, which is the subject matter of this quash petition, had illicit affair with one Marisamy and that was the cause for discard in the family life and after deserting the petitioner herein, the first respondent started living with Marisamy and also given birth to one female child. Further, it is also stated in the quash petition that the matrimonial complaint given by the first respondent herein to the All Women Police Station, Valliyoor in Crime No.7 of 2016, for offence under Sections 498(A) and 406 of I.P.C., but the same was closed as 'Mistake of Fact' on 20.11.2018.

5.The learned counsel for the petitioner would submit that the first respondent has filed M.C.No.18 of 2016 suppressing all the facts and she is not entitled for any maintenance, as claimed in the petition. Since it is a clear abuse of process of law, to meet the ends of justice, the Court has invoked the inherent power and quash the same.

6.In support of his contention, the Birth Certificate of one Krishitha Marisamy born to Muthulakshmi Muthumanickam at Buckinghamshire, London is furnished and also the Bank Statement indicating that every month the petitioner herein is transferring 3,000 pounds into the account of the first respondent. From the Registry records, this Court finds an affidavit of service of notice in the given address of the first respondent filed. This Court on 22.11.2019, had directed the petitioner herein to serve notice to the first respondent through g-mail and whats-app. Accordingly, the notice has been served to the first respondent and proof of service filed before this Court on 20.12.2019.

7. Even thereafter, to ensure and give an opportunity to the first respondent, this Court has directed the petitioner to serve notice through Embassy and also appointed a Legal Aid Counsel. This Court is of the view that the service of notice through g-mail and whats-app as found in the proof of service filed by the petitioner's counsel is suffice to record compliance of service and there is enough material for this Court to hold that the current maintenance petition filed in the year 2016 by the first respondent herein is devoid of merits and truth.



8.The maintenance petition is filed by the first respondent herein without disclosing her actual place of residence. From the material placed before this Court, it is clear that both the parties are residents of London and an order is passed by the Slough Country Court at U.K. in connection with their matrimonial dispute. The petitioner herein depositing 3,000 Pounds per month into the account of the first respondent herein towards maintenance.

9.In the light of the fact that there is enough evidence to show that the respondents herein who are the petitioners in M.C.No.18 of 2016 are not residing within the jurisdiction of this Court any longer and the first respondent has not made out any *prima facie* case for granting maintenance to her or to her children in the said maintenance petition. Hence, this Criminal Original Petition is allowed.

10.In view of the above, the Criminal Original Petition is allowed and the M.C.No.18 of 2016 on the file of the Judicial Magistrate Court, Thirumangalam, is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Judicial Magistrare, Thirumangalam,

+1 CC to M/s.K.P.NARAYANA KUMAR, Advocate (SR-37439[F] dated 06/12/2021)

Crl.O.P. (MD)No.11924 of 2017

03.12.2021