



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Cr1.O.P. (MD) No.19064 of 2021

WEB COPY

S.Zahir Hussain ... Petitioner/Husband

Vs

1.Ali-Fathima ... 1st Respondent/Ex-wife

2.K.Mohammed Siddiq ... 2nd Respondent/Brother of Ex-Wife

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records and quash the entire proceedings order dated 19.03.2010 in M.C.No.16 of 2007 in Judicial Magistrate, Bodinayakanur out of jurisdiction.

For Petitioner : Mr.K.Guruchev

For Respondents : Mr.K.K.Samy

ORDER

Challenging the order passed in M.C.No.16 of 2007 on the file of the learned Judicial Magistrate, Bodinayakanur dated 19.03.2010, this Criminal Original Petition has been filed.

2.The learned counsel appearing for the petitioner submits that the petitioner and the 1st respondent is the husband and wife. Due to the matrimonial dispute, the 1st respondent filed M.C.Nos.15 of 1994, 9 of 1995 and 9 of 1999 claiming maintenance as against the petitioner and finally, she filed M.C.No.16 of 2007 before the learned District Munsif cum Judicial Magistrate, Bodinayakanur as the 4th maintenance case and got an *ex parte* order dated 19.03.2010. Against the same, the petitioner is before this Court seeking to quash the order made in M.C.No.16 of 2007 dated 19.03.2010.

3.The learned counsel appearing for the respondents submits that though the trial Court has passed an *ex parte* order dated 19.03.2010, the petitioner has failed either to approach the concerned Court for setting aside the *ex parte* order or to file a revision before the Sessions Court. Without availing the alternate remedy available to the petitioner, he has straight away come to this Court challenging the proceedings in M.C.No.16 of 2007.



4.I have considered the matter in the light of the submissions of the learned counsel on either side.

5.Perusal of records reveal that the relationship of the petitioner and the 1st respondent admittedly is not disputed. Initially, the 1st respondent/wife filed M.C.No.15 of 1994 for maintenance and then she filed M.C.Nos. 9 of 1995 and 9 of 1999 for the very same relief. It is further revealed that the trial Court has passed an *ex parte* order in M.C.No.16 of 2007, as against the petitioner, since he has not been appeared before the Court and directed him to pay a sum of Rs.500/- per month to the 1st respondent herein towards maintenance on or before the 10th day of every English Calender month. Further, it is revealed that the petitioner has not filed any petition before the concerned Court to set aside the *ex parte* order and never filed any revision application.

6.Under these circumstances, I do not find any merit to entertain this Criminal Original Petition at this stage and accordingly, it is dismissed, as the same is un-sustainable. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

The District Munsif Cum Judicial Magistrate,
Bodinayakanur.

+1 CC to M/s.K.K.SAMY, Advocate (SR-25035[F] dated 10/06/2022)

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nsn(CO)

TR(14.06.2022) 2P 3C