



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.19281 of 2018

and

Crl.M.P(MD)No. 8670 of 2018

M.Kalidass

... Petitioner/Petitioner

Vs.

T.Shanthipriya

... Respondent/Respondent

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for records and set aside the order passed by the Principal Sessions Judge, Dindigul, in CRL.R.P.No.11 of 2017 dated 09.01.2018 confirming the order in CRL.M.P.No.3992 of 2016 in MC.No.3 of 2016 passed by the District Munsif Cum Judicial Magistrate Vedachandur.

For Petitioner : Mr.R.S.Sivaram

For Respondent : Mr.K.Siva Balan

ORDER

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

2. The petitioner is the husband of the respondent herein. The respondent filed M.C.No.3 of 2016 before the Judicial Magistrate, Vedachandur. The trial Court vide order dated 10.04.2017 directed the petitioner to pay interim maintenance of Rs.6,000/-. Questioning the same, the petitioner filed criminal revision case No.11 of 2017 before the Principal District and Sessions Judge, Dindigul. The revisional court vide order dated 09.01.2018 dismissed the revision petition. Challenging the same, this criminal original petition has been filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of grounds. He would contend that the petitioner is earning hardly Rs.10,000/- per month and that therefore, it would be inequitable to direct him to pay Rs.6,000/- per month as interim maintenance.

4. Though the contentions of the petitioner's counsel are rather persuasive, as rightly pointed out by the learned counsel appearing for the respondent, when the petitioner had already



exhausted his revisional remedy, the question of maintaining the second revision will not arise at all. To overcome the statutory bar set out in Section 379 of Cr.P.C., the petitioner cannot file a petition under Section 482 of Cr.P.C.,. Of-course, under certain exceptional circumstances, a petition under Section 482 of Cr.P.C., will lie, even if the petitioner had lost the revision before the sessions court. But the case on hand cannot be characterised as one such. The respondent is admittedly the wife of the petitioner. The petitioner filed the divorce petition against the respondent. But the same was dismissed. The court below has only awarded interim maintenance. When the courts below have concurrently held in favour of the respondent, the question of interfering in exercise of jurisdiction under Section 482 of Cr.P.C., will not arise at all. This Criminal Original Petition is dismissed.

5. However, the trial magistrate shall dispose of M.C.No.3 of 2016 on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order. I make it clear that the dismissal fo this petition will not operate the prejudice of the petitioner herein. M.C.No.3 of 2016 will be disposed of entirely on its own merits. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

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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

1.The Principal Sessions Judge, Dindigul.

2.The District Munsif Cum Judicial Magistrate Vedachandur.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.S. SIVARAM, Advocate (SR-672[F] dated 06/01/2022)

Crl.O.P. (MD)No.19281 of 2018

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