



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2022

CORAM :

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.17489 of 2019

and

Crl.MP(MD)No.10381 of 2019

T.Brindha ... Petitioner/Complainant
Vs.

1.Dr.S.Jaikumar

2.K.Shanmugasundaram

3.K.Kalaiselvi

4.C.Shanmugam

5.S.Shanthi

6.Ponnambalam

7.Manivannan

8.Nandhini ... Respondents/Defendants

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to set aside the condition imposed in Cr.MP.No.3300 of 2019 in D.V.O.P.No.17 of 2017 on the file of learned Additional Mahila Court (Judicial Magistrate), Trichy, dated 18.11.2019 and consequently, to direct the learned Additional Mahila Court (Judicial Magistrate), Trichy to allow the said Miscellaneous Petition U/S 311 of Cr.P.C.

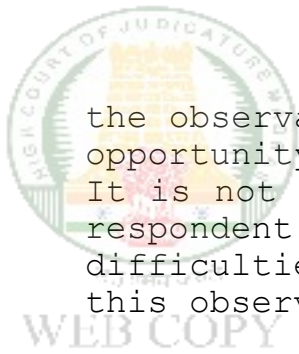
For Petitioner : Mr.P.Yasmin Begum

For Respondents : Mr.K.Mu.Muthu

O R D E R

This petition is filed seeking order to set aside the condition that has been imposed by the learned Additional Mahila Court (Judicial Magistrate), Trichy, in Cr.MP.No.3300 of 2019 in D.V.O.P.No.17 of 2017, dated 18.11.2019, and direct the learned Additional Mahila Court (Judicial Magistrate), Trichy, to allow the said Miscellaneous Petition filed under Section 311 of Cr.P.C.

2.The grievance of the learned counsel for the petitioner is that D.V.O.P has been filed seeking maintenance. But, the maintenance amount was not properly paid by the respondent. Further,



the observation made by the Trial Court that even though, sufficient opportunity was given to the petitioner, she has not utilized that. It is not correct on record and further grievance is that since the respondent has to bring the child to Trichy, he has experienced difficulties. But, actually, the petitioner only visited Chennai and this observation also not correct on record.

3.This Court cannot go into those disputed factual aspect as to whether the observation that was made by the Trial Court is correct or not.

4.The petitioner being the wife, her position ought have been considered by the Trial Court while imposing the condition. Since maintenance amount has not been properly paid, imposing the condition upon the petitioner to pay a sum of Rs.3000/- as cost, may not be proper. So, on this ground, the conditional order that has been passed by the Trial Court has to be set aside.

5.Accordingly, the condition imposed by the learned Additional Mahila Court (Judicial Magistrate), Trichy, in Cr.MP.No.3300 of 2019 in D.V.O.P.No.17 of 2017, dated 18.11.2019, is set aside and without any cost, the petition, filed by the petitioner in Cr.MP.No.3300 of 2019 in D.V.O.P.No.17 of 2017 for re-calling R.W.1 stands allowed.

6.The parties shall appear before the Trial Court on next hearing date without fail.

7.In view of the above, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

dss

To

The Additional Mahila Court(Judicial Magistrate),
Trichy.

+1 CC to M/s.P.YASMIN BEGUM, Advocate (SR-11426[F] dated
11/03/2022)

CrI.O.P. (MD)No.17489 of 2019

and

CrI.MP (MD)No.10381 of 2019

RK(23/03/2022) 2P 3C

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