



Crl.O.P.No.13834 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.13834 of 2023 and
Crl.M.P.No.8507 of 2023

Thameem Ansari

...Petitioner

Vs.

1.Asifiya Afreen

2.Mohammed Thameem

...Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C, to call for the records pertaining to the MC.No.04 of 2022 pending on the file of the learned Additional District Munsif cum Judicial Magistrate, Ambur, Vellore and quash the same.

For Petitioner : Mr.M.Rajeswaran

For Respondents : No appearance

ORDER

This Criminal Original Petition has been filed to call for the records pertaining to the MC.No.04 of 2022 pending on the file of the learned



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Additional District Munsif cum Judicial Magistrate, Ambur, Vellore and
quash the same.

2.It is the submission of learned counsel for the petitioner that first respondent on her behalf and on behalf of her son filed petition under Section 125 Cr.P.C. seeking maintenance from the petitioner. Further submission is that first respondent on her own will and violation left the matrimonial home and therefore, she cannot file petition under Section 125 Cr.P.C. The marriage between the petitioner and first respondent is null and void for the reason that she is a lunatic. On this ground, this petition is filed.

3.Considered the submissions of learned counsel for the petitioner and perused the records.

4.It is seen from the averments made in paragraph No.6 of the maintenance petition that first respondent was forced out of the house by petitioner's mother. Therefore, the claim of the petitioner that first



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respondent left the matrimonial home on her own will is not correct. It requires to be examined during the course of trial. It is also the contention of the learned counsel for the petitioner that the marriage between the petitioner and first respondent is null and void for the reason that first respondent is suffering from mental disability. It is a disputed fact. The points raised by the learned counsel for the petitioner requires evidence in support of his contention. Without giving evidence, this Court cannot enquire on the contentions of the petitioner. Therefore, giving liberty to the petitioner to raise these grounds before the trial Court, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking/Non speaking order
ep

To
The Additional District Munsif cum Judicial Magistrate,
Ambur, Vellore.



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G.CHANDRASEKHARAN, J.

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