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Crl.O.P.No.9014 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.9014 of 2023

Munusamy

... Petitioner

Vs.

1.Muthulakshmi

2.Minor. Reema

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the Family Court Judge, Dharmapuri to number the unnumbered Criminal Miscellaneous Petition in Cr.M.P.Sr.No.605 of 2023 in Cr.M.P.No.364 of 2022 in Cr.M.P.No.110 of 2017 in M.C.No.32 of 2008 on the file of the Family Court Judge, Dharmapuri and the same may be disposed in accordance with law.

For Petitioner : Mr.V.Sakkarapani

ORDER

This Criminal Original Petition has been filed to direct the Family Court Judge, Dharmapuri, to number the unnumbered Criminal Miscellaneous Petition in Cr.M.P.Sr.No.605 of 2023 in Cr.M.P.No.364 of



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2022 in Cr.M.P.No.110 of 2017 in M.C.No.32 of 2008, on the file of the Family Court Judge, Dharmapuri and the same may be disposed in accordance with law.

2.The learned counsel for the petitioner submitted that M.C.No.32 of 2008 was filed by the respondents seeking maintenance under Section 125 Cr.P.C. On 26.08.2010 that petition was allowed ordering a sum of Rs.1000/- to each of the respondents and an additional sum of Rs.5,000/- per year towards medical, education and other expenses. Thereafter, respondents filed Cr.M.P.No.110 of 2017 in M.C.No.32 of 2008, on the file of the Family Court, Dharmapuri, for enhancement of maintenance. In the Lok Adalat, the matter was settled and maintenance was enhanced to Rs.7,000/- per month. Respondents filed Cr.M.P.No.364 of 2022 under Section 127 Cr.P.C. for enhancing maintenance order passed in Cr.M.P.No.110 of 2017 in M.C.No.32 of 2008. Petitioner filed Cr.M.P.Sr.No.605 of 2023 for cancelling the maintenance. This petition was returned on 13.04.2023 for the reason that already a petition under Section 127 Cr.P.C. is pending and therefore, this petition cannot be



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entertained. Challenging the return made on 13.04.2023, the present petition is filed.

3.Petitioner has filed this petition on the ground that first respondent is working as a Section Supervisor at Agadi Hospital, Bangalore and earning a sum of Rs.20,000/- per month. Second respondent has now become major. Under the said change of circumstances, petitioner has filed this petition.

4.Considered the submissions and perused the records.

5.Merely because the petition under section 127 Cr.P.C. filed by the wife and child in Cr.M.P.No.364 of 2022 is pending, returning of the petition filed by the petitioner under Section 127 Cr.P.C. for cancelling the maintenance, under change of circumstances, cannot be returned. Petitioner has taken certain valid grounds as detailed above for cancellation of maintenance already ordered. Therefore, return endorsement made on 13.04.2023 by the learned Family Court Judge, Dharmapuri, is set aside.



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6.The learned Family Court Judge, Dharmapuri, is directed to number the petition, give opportunity to the respondents to file counter and dispose the petition filed by the petitioner and by the respondents pending in Cr.M.P.No.364 of 2022 jointly, as expeditiously as possible, preferably, within a period of one month from the date of receipt of a copy of this order.

7. With the above directions, this Criminal Original Petition is allowed.

07.06.2023

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Internet:Yes
Index:Yes/No
Speaking/Non speaking order

To:
The Family Court, Dharmapuri.



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G.CHANDRASEKHARAN, J.
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