



Crl.O.P.No.25634 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.25634 of 2023

1.Dhanalakshmi

2.S.Chmundeeswari

... Petitioners

Vs

T.V.Sathyanarayanan

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order dated 20.05.2022 passed in M.P.No.152/2020 in M.C.No.484/2014 passed by the learned VII Additional Family Court, Chennai.

For Petitioners : Ms.Shahila Banu

ORDER

The petitioner herein filed maintenance case before the Family Court, Chennai in the year 2014 had taken out an application under Section 311 Cr.P.C., to examine herself and the 2nd petitioner Chamudeeswari who is her daughter.



2. The petition filed on 11.03.2019 was taken up for consideration by the Family Court and the same was allowed with a direction that she should be present for examination along with other witnesses on 20.05.2022. The petitioner though present did not choose to mount the witness box. Recording the same, the Family Court has closed the petition and proceed to the next stage.

3. The learned counsel appearing for the petitioner submitted that on 20.05.2022, the respondent was not present, therefore, re-examination of the petitioner could not be done and further since on that day the petitioner was not well, suffering from fever could not comply the condition imposed by the Court, while allowing recall petition. Contending that the reason stated by the Court for closing evidence is neither sound nor correct. The impugned order dated 20.05.2022 reads as below:

*“Petitioner present. Respondent absent.
Petitioner not chosen to examine any of her
witness. So, this petition is sufficient for dismissal
as condition of this Court not complied with.”*



4. The said impugned order reading with the reason stated under Section 311 Cr.P.C., which was allowed on condition clearly show that the 2nd petitioner, the daughter of the respondent had filed proof affidavit as early as on 11.03.2019 and therefore, for her examination, the recall petition been filed. Though the Family Court has allowed the recall petition on a specific condition that on that day the witness must be present, the witness was not present. In the absence of the respondent, it cannot be taken advantage of the petitioner herein, who has sought indulgence of this Court to reopen the case, was specifically directed to be present on 20.05.2023 for recording the evidence. Hence this Court finds no reason to entertain the petition more particularly taking note of the fact that the Maintenance case was filed in the year 2014 and till date even after lapse of 9 years no fruitful progress made in the case. Hence this Criminal Original Petition is dismissed.

09.11.2023

Index : Yes/No
Neutral Citation : Yes/No
rpl

To

The VII Additional Family Court, Chennai.



WEB COPY



Crl.O.P.No.25634 of 2023

Dr.G.JAYACHANDRAN, J.

rpl

Crl.O.P.No.25634 of 2023

09.11.2023