



Criminal Original Petition No.15980 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.15980 of 2023

and

CrI.M.P.No.9996 of 2023

K.Vidhya Prakash
S/o.Kandavel

...Petitioner

Vs

1.K.Sinduja
D/o.S.Kothandapany

2.Nakshatra
D/o.K.Vidhya Prakash

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for the records pertaining to M.C.No.371/2022, pending on the file of III Additional Family Court, Chennai and to quash the same.

For Petitioner : Mr.H.Kalpana



ORDER

This petition has been filed seeking to quash the proceedings in M.C.No.371/2022 pending before the III Additional Family Court, Chennai.

2. The main ground that was urged by the petitioner is that the first respondent has initiated maintenance proceedings before the Family Court at Andaman and Nicobar Island and the case was at the stage of trial. The first respondent did not prosecute the case and it ended in dismissal for non-prosecution on 10.02.2022. In the mean time, the petitioner also filed H.M.O.P.No.4457 of 2016 for dissolution of marriage and the said petition was dismissed by the Family Court by order dated 16.12.2021. Thereafter, the first respondent filed yet another petition u/s.125 Cr.P.C. seeking maintenance for herself and the child before the III Additional Family Court, Chennai. In view of the same, it is contended that the second maintenance petition is not sustainable as the first maintenance petition was already contested and it was dismissed for default.

3. In the considered view of this Court, the petitioner has to raise all these grounds only before the Court below and it cannot be decided in this



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petition. As to whether a second maintenance petition is maintainable after the first maintenance petition was dismissed for default, is a matter to be considered by the Court below and it cannot become a subject matter in a Criminal Original Petition filed u/s.482 Cr.P.C. Hence, liberty is given to the petitioner to raise all the grounds before the Court below and the same shall be considered on its own merits and in accordance with law.

This Criminal Original Petition is disposed of in the above terms.

Consequently, connected miscellaneous petition is closed.

14.07.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
gm

To
The III Additional Family Court,
Chennai.



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N.ANAND VENKATESH, J

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