



Criminal Original Petition No.16823 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.16823 of 2023

and

CrI.M.P.No.10826 of 2023

1.C.Shobana

D/o.C.K.Chandrasekar

2.M.S.Dhuruvan

S/o.C.V.Madhusudhanan

3.Samathmika

D/o.C.V.Madhusudhanan

...Petitioners

Vs

C.V.Madhusudhanan

S/o.C.D.Vijayakumar

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to set aside the order dated 12.07.2023 passed by the VII Additional Judge, Family Court, Chennai, in CrI.M.P.No.632 of 2023 in M.C.No.158 of 2021.

For Petitioners

: Mr.Harikrishnan

for M/s.Praganattorneys

ORDER



WEB COPY This Criminal Original Petition has been filed challenging the proceedings of the Court below dated 12.07.2023 in CrI.M.P.No.632 of 2023 in M.C.No.158 of 2021 directing the Principal of the Shraddha Children's Academy to appear before the Court below on 01.08.2023.

2. The petitioners have filed maintenance case before the Court below seeking for maintenance for the wife and children. In this petition, the respondent filed an application u/s.91 Cr.P.C. to issue subpoena to the Principal of Shraddha Children's Academy to produce certain documents/details. This application was allowed by the Court below and it is apparent from the order that the documents/details have also been received by the Court.

3. The grievance of the petitioners is that the Court below has insisted for the appearance of the Principal of the school. The first petitioner seems to have been working in the said school and because of this litigation and the notice issued by the Court, she is facing a difficult situation with the school. Therefore, the petitioners have filed the present petition on the ground that there is no need for insisting the appearance of the Principal.

4. This Court carefully heard learned counsel for petitioners and



considered the materials available on record.

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5. Section 91(2) Cr.P.C., reads as follows:

"91. Summons to produce document or other thing

(1)

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same."

6. On carefully going through the order passed by the Court below, it is seen that the documents have already been received from the school and the Court below is insisting for the presence of the Principal of the school to appear in the Court. A plain reading of Section 91(2) Cr.P.C makes it very clear that production of a document by itself will be deemed to be in compliance with the order passed u/s.91 Cr.P.C. and it is not necessary for the concerned person to attend the Court personally to produce the same. It is not necessary for the Court below to mark these documents through the Principal of the school. The documents can be acted upon and if required, the respondent can mark these documents by cross-examining the petitioners.

N.ANAND VENKATESH, J



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WEB COPY 7. In the light of the above discussion, this Court finds that insisting the presence of the Principal to appear before the Court below is not necessary and to that extent, the order passed by the Court below in CrI.M.P.No.632 of 2023 in M.C.No.158 of 2021, dated 12.07.2023, is set aside.

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

27.07.2023

Note to office: Issue order copy by 31.07.2023

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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To

The VII Additional Judge,
Family Court, Chennai.

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