



CrI.O.P.No.19602 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.07.2023

PRONOUNCED ON: 21.08.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CrI.O.P.No.19602 of 2021

and

CrI.M.P.Nos.10707 & 10708 of 2021

M.Krishna Rao

...

Petitioner

/vs/

1.R.Manjula

2.Minor M.Thrishna

Represented by her mother

and Natural guardian R.Manjula

...

Respondents

Prayer : Criminal Original Petition has been filed under Section 482 Cr.P.C. to call for the records and quash the complaint in M.C.No.10 of 2020 on the file of the Hon'ble Court of Judicial Magistrate – II, Hosur.

For Petitioner

...

Mr.S.Ravi

Senior Counsel

for M/s.Gupta and Ravi

For Respondents

...

Mr.B.S.Manikandan



CrI.O.P.No.19602 of 2021

ORDER

Challenging the proceedings in M.C.No.10 of 2020 on the file of the Judicial Magistrate No.II, Hosur, the present criminal original petition has been filed.

2.The learned counsel appearing for the petitioner submitted that the petitioner is a Chartered Accountant practicing at Hosur Town at Krishnagiri District. He got married one Kiran Padma in the year 1986. Out of wedlock, he had two children namely, Rakesh Chowdary and Rakshita Chowdary, aged about 34 years and 30 years respectively. These respondents were unknown to him. The first respondent filed a case in DVC No.9 of 2011 before the III Additional Judicial Magistrate of First Class, Tirupati against the petitioner under the provisions of the Protection of Women from Domestic Violence Act, 2005 claiming herself as wife of the petitioner and sought maintenance for herself and her daughter the second respondent. In order to settle the matter, the matter was compromised before the Lok Adalat on 18.11.2011 and the Lok Adalat passed an award under Section 21 of the Legal Services Authorities Act, 1987. In terms of the said compromise, the petitioner agreed to pay a sum



Crl.O.P.No.19602 of 2021

of Rs.10,00,000/- to the respondents towards quit and in full and final settlement of all past, present and future maintenance as permanent alimony forever. Since the matter has been settled before the Lok Adalat and permanent alimony has been granted, filing of this maintenance case in M.C.No.10 of 2020 before the Judicial Magistrate No.II, at Hosur, is misusing the process of the Court, which is unsustainable and liable to be quashed.

3.To support his argument, the learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in ***P.T.Thomas Vs. Thomas Job*** reported in ***AIR 2005 SC 3575***.

4.The learned counsel appearing for the respondents submitted that the petitioner is the legally wedded husband of the first respondent and father of the second respondent. The first respondent filed a case in DVC No.9 of 2011 before the III Additional Judicial Magistrate of 1st Class, Tirupati against the petitioner for maintenance. Thereafter, the petitioner ensured that he will take care of the second respondent's education,



Crl.O.P.No.19602 of 2021

marriage and other expenses apart from the amount that was to be paid before the Lok Adalat. In order to settle the matter, the matter was compromised before the Lok Adalat on 18.11.2011. In the Lok Adalat, megre amount has been granted to the respondents. Thereafter, the petitioner paid a school fee in the year 2012 after that he did not take care any expenses. There is no bar filing an application under Section 125 Cr.P.C. for claiming maintenance and thus, seeks to dismiss the criminal original petition.

5.I have considered the matter in the light of the submissions made by the learned counsel for the petitioner as well as the learned counsel for the respondents.

6.On perusal of the materials available on record, it is noticed that the first respondent had filed a complaint against the petitioner under the provisions of the Protection of Women from Domestic Violence Act, 2005 in DVC No. 9 of 2011 on the file III Additional Judicial Magistrate of First Class, Tirupati and also noticed that the case was compromised and arrived



CrI.O.P.No.19602 of 2021

at settlement between the parties before the Legal Services Authorities and the Legal Services Authorities passed the Award dated 18.11.2011 under Section 21 of the Legal Services Authorities Act, 1987, in terms of the said compromise and undertaking given by the parties. The relevant portion of the Award runs as follows:

“As the matter is settled mutually between the parties, the petitioner along with her daughter by name Thrishna are hereby agreed to receive a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) from the respondent towards their quit and full settlement of past, present and future maintenance as permanent alimony for ever. . . . Neither the petitioner herein nor her daughter Thrishna shall claim any kind of maintenance grant in future from the respondent or his family. . . .

Neither the petitioner herein nor her daughter Thrishna shall file any kind of cases before the Hon'ble Courts in future for claiming any maintenance or right over the movable or immovable properties owned and possessed by the respondent or his family members respectively..”



CrI.O.P.No.19602 of 2021

7.In view of the above, it is made clear that the petitioner had granted permanent alimony to the respondents before the Lok Adalat. Under such circumstances, by filing another application in M.C.No.10 of 2020 claiming for maintenance under Section 125 Cr.P.C before the Judicial Magistrate No.II, at Hosur, is misusing the process of Court. Applying the principles stated by the Hon'ble Supreme Court in ***State of Haryana & Ors. Vs. Ch.Bhajan Lal & Ors.*** reported in ***AIR 1992 SC 604***, M.C.No. 10 of 2020 filed by the first respondent is clearly misusing the process of the Court and the Award of Lok Adalat is binding the parties, hence, it is liable to be quashed.

8.In the result, the maintenance case in M.C.No.10 of 2020 filed under Section 125 Cr.P.C on the file of the Judicial Magistrate No.II, at Hosur, is hereby quashed. Accordingly, the criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

Index : Yes/No

Internet : Yes/No

21.08.2023

sms

To

The Judicial Magistrate Court No.II, Hosur.



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Crl.O.P.No.19602 of 2021

V.SIVAGNANAM ,J.

sms

Pre-delivery order made in
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