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Crl.O.P.No.25602 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2023

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.25602 of 2021

&

CRL.M.P.No.14183 of 2021

Shanmugham

... Petitioner

Vs

1.Rajalakshmi

2.Minor Keerthigadevi

represented by guardian mother

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records and quash the proceedings in M.C.No.9 of 2021 pending on the file of the Judicial Magistrate No.1, Panruti.

For Petitioner : Mr.R.Gururaj
for D.Baskar

For Respondents : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in M.C.No.9 of 2021 pending on the file of the Judicial Magistrate No.1, Panruti.

2. The petitioner is the husband and the respondents are wife



and daughter. The first respondent got married to the petitioner on 21.06.2013. Due to wedlock, they gave a birth to the second respondent.

However, due to misunderstanding and cruelty committed by the petitioner, the first respondent was driven out from the matrimonial home. However, since they were unable to maintain themselves, they filed a petition for maintenance under Section 125 of Cr.P.C. before the judicial Magistrate No.I, Panruti.

3. The learned counsel appearing for the petitioners would submit that the Judicial Magistrate No.I, Panruti, comes within the jurisdiction of the District Court, Cuddalore. In the year 2019 itself, in the Cuddalore District, a Family Court has been constituted and as per the notification, the jurisdiction of Family Court extends to Panruti Taluk also. The respondents are residing within the jurisdiction of Panruti. Section 7 and 8 of the Family Court Act is very clear that no Magistrate shall in relation to such area, have or exercise any jurisdiction or power under Chapter IX of the Code of Criminal Procedure, 1973. It is relevant to extract the provision under Section 8 of the Family Court Act is as follows :-

“Exclusion of jurisdiction and pending



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proceedings – Where a Family Court has been established for any area,

(a) no District Court or any Subordinate Civil Court or referred to in sub-section (1) of Section 7 shall, in relation to such area, have or exercise any jurisdiction in respect of any suit or proceeding of the nature referred to in the explanation to that sub-section ;

(b) no Magistrate shall, in relation to such are, have or exercise any jurisdiction or power under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) ;

(c) every suit or proceeding of the nature referred to in the explanation to sub-section (1) of Section 7 and every proceeding under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974),

(i) which is pending immediately before the establishment of such Family Court before any District Court or Subordinate Court referred to in that sub-section or, as the case may be, before any Magistrate under the said Code ; and

(ii) which would have been required to be instituted or taken before or by such Family Court if, before the date on which such suit or proceeding was instituted or taken, this Act had come into force and such Family Court had been established, shall stand transferred to such Family Court on the date on which it is



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established.”

4. Admittedly, the residence of the petitioner is coming within the jurisdiction of the Family Court, Cuddalore. Therefore, the Judicial Magistrate No.I, Panruti, ought not to have taken cognizance in M.C.No.9 of 2021 for the offence under Section 125 of Cr.P.C. However, on this ground, the entire proceeding cannot be quashed. It is submitted that already the petitioner had filed a divorce petition in HMOP No.146 of 2020 and it is pending on the file of the Family Court, Cuddalore.

5. In view of the above, the proceedings in M.C.No.9 of 2021 is hereby withdrawn from the file of the Judicial Magistrate No.I, Panruti and it is hereby ordered to be transferred to the file of the Family Court, Cuddalore, to be tried along with HMOP No.146 of 2020.

6. With the above direction, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

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Index:Yes/No
Internet:Yes/No



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To

The Judicial Magistrate No.1,

Panruti.

2. The Judge,
Family Court,
Cuddalore



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G.K.ILANTHIRAIYAN,J.

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