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CrI.O.P.No.27577 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2023

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.27577 of 2023

and

CrI.M.P.Nos.19085 & 19086 of 2023

Sri Kunal.J @ Kunal Sakariya

.. Petitioner

/versus/

Nikitha

.. Respondent

Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the entire records pertaining to the case filed by the respondent in M.C.No.632 of 2022 pending on the file of the learned II Additional Family Court Judge at Chennai and quash the same.

For Petitioner :Mr.S.N.Jha
for M/s.H.M.Farooq

ORDER

The petitioner is the husband of the respondent. The respondent has initiated proceedings under Section 125 Cr.P.C., before the II Additional Family Court Judge, Chennai seeking maintenance against the petitioner

1/4



Crl.O.P.No.27577 of 2023

herein alleging that their marriage took place at RR Wedding Bells Marriage Hall, Mysore, but that marriage was short lived. She has been forced to move to her parents house at Chennai. To meet out her daily needs, the Maintenance Case is filed seeking Interim Maintenance of Rs.30,000/- per month and Rs.50,000/- as maintenance per month.

2. This Criminal Original Petition is now sought to be quashed on the ground that the very factum of marriage solemnized on 20.11.2021 at RR Wedding Bells Marriage Hall, Mysore, itself is a subject matter of the suit in O.S.No.74 of 2023, pending on the file of the Principal Judge, Family Court, Bengaluru. The relief sought in the said suit is to declare the marriage held on 20.11.2021 is invalid and the consequential registration certificate is null and void, also relief of permanant injunction restraining the defendant-4 and her family members from interfering the day to day affairs of the plaintiff by way of publishing any contents in news articles, paper publications/social media/website citing the pendency of the suit. The learned counsel for the petitioner seeks quashment of the Maintenance Case



Crl.O.P.No.27577 of 2023

stating that when the very factum of marriage itself is now been questioned, which is the subject matter of the suit, petition for maintenance cannot sustain.

3. On perusal of the record, this Court finds that the solemnization of marriage is admitted by the petitioner, stating various other reasons the suit is filed to declare the said marriage as invalid and certain consequential relief in the nature of permanent injunction is also sought as narrated above. Interestingly this Court also finds an Interlocutory Application under Order 39 Rule 2 to restrain the defendant No.4 i.e., the respondent herein from getting engaged or married to any third party without due process of law in pending disposal of the present suit i.e. O.S.No.74 of 2023. After seeking restrain order against the respondent from getting herself engaged to somebody else, the respondent's petition for maintenance is now questioned, which is quite contrary to each other. Above all a suit to declare the marriage as invalid is not a bar to the spouse for seeking maintenance under Section 125 Cr.P.C. Therefore, this Court finds no merit in this petition.



Crl.O.P.No.27577 of 2023

Dr.G.JAYACHANDRAN,J.

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Hence this Criminal Original Petition is dismissed. Consequently, the connected Criminal Miscellaneous Petitions are also dismissed.

08.12.2023

Index:yes/no

Netural Citation:yes/no

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To:

The II Additional Family Court Judge, Chennai

Crl.O.P.No.27577 of 2023