



Crl.O.P.(MD)No.23186 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.03.2023**

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.23186 of 2022

1. Lathabai

2.V.Jabishan Varches

3. V.Jebin

... Petitioners/Petitioners

Vs.

M.Vasteen Jayakumar

...Respondent/Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the return document order and issue a direction to the learned Family Court, Kanyakumari District at Nagercoil, and to take the Miscellaneous Petition filed on 04.04.2022 filed under Section 128 of Cr.P.C. For enforcement of order of maintenance passed in M.C. No.5 of 2010 dated 18.09.2012 on the file of the Judicial Magistrate, Eraniel.

For Petitioner : Mr.Karunanidhi.R



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ORDER

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This Criminal Original Petition has been filed to set aside the return order and issue a direction to the learned Family Court, Kanyakumari District at Nagercoil, and to take the Miscellaneous Petition filed on 04.04.2022 filed under Section 128 of Cr.P.C. for enforcement of order of maintenance passed in M.C. No.5 of 2010 dated 18.09.2012 on the file of the Judicial Magistrate, Eraniel.

2. Questioning the maintainability of the petition filed under Section 128 of Cr.P.C filed before the Family Court, Kanyakumari, was returned that was resubmitted on 15.07.2022 and again that was returned stating that previous order of return still holds hood.

4. The maintainability should not be decided at administration level. On the sole ground, the above said order is set aside. The family Court, Kanyakumari, is directed to receive the petition and process the same in accordance with law without returning the same.



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5. The family Court entertained doubt with regard to the maintainability of the petition, so opportunity must be given to the petitioner to put forth his argument, thereafter the family Court, Kanyakumari at Nagercoil, may proceed in accordance in law. For that purpose the above said petition itself may be returned to the petitioner for resubmitting the same.

6. With the above said direction, this Criminal Original Petition is disposed of.

09.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Indu

Note: Issue order copy on 16.03.2023.

To

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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G.ILANGO VAN,J.

Indu

Order made in
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