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CrI.O.P.No.20872 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.20872 of 2024

and

CrI.M.P.No.11991 of 2024

Gnana Alan

... Petitioner

Vs.

1.Chitra

2.Akhil

Rep.by his mother Chitra 1st petitioner

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 pleaded to set aside the Returned Docket order dated 19.09.2023 in C.M.P.Sr.No.3391 of 2022 in M.C.No.107 of 2022 on the file of the learned Principal Family Judge, Coimbatore and proceed with C.M.P.Sr.No.3391 of 2022 and decide the same on merits and pass suitable orders.

For Petitioner : Mr.N.Ganeshmurthy



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ORDER

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This petition is filed by the husband being aggrieved by the application filed to initiate action against the wife, by suppression of facts. The wife has filed maintenance case in M.C.No.107 of 2022 on the file of the Family Court, Coimbatore seeking Rs.75,000/- as maintenance. Instead of contesting the matter to reach logical conclusion, the petitioner/husband has taken out an application under Section 340 Cr.P.C to initiate preliminary action against the first respondent/wife for alleged suppression of source of income. The learned Principal Family Judge, Coimbatore, after considering the nature of the application, has returned the application as not maintainable. Being aggrieved by the said order, the present Criminal Original Petition is filed.

2. Learned counsel for the petitioner submits that suppression of vital facts regarding the income of first respondent/wife, is with an intention to secure conviction and hence, ingredients of prosecuting the wife for the offence under Section 195 of Cr.P.C squarely attracts. The impugned docket order of the learned Judge is without proper application of mind and hence, it has to be set aside.



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3. This Court, on a perusal of the records, finds that the fact which has been ascertained by the first respondent/wife is denied by the petitioner/husband and he relied upon certain documents. Whether the first respondent/wife has sufficient source of income and had deliberately suppressed the fact, has to be first decided and only thereafter, the allegation of voluntary suppression of fact to get conviction will arise. Hence, the impugned order of the trial Court returning the petition filed under Section 340 Cr.P.C is perfectly in order and in accordance with law. Hence, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

29.08.2024

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ms

To

The Principal Family Judge,
Coimbatore.



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Dr.G.JAYACHANDRAN, J.

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