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CrI.O.P.No.10767 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.10767 of 2024

and

CrI.M.P.No.7302 of 2024

G.Kulasekaran

... Petitioner

Vs.

M.Nirmala

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records and quash all the proceedings in M.C.No.4 of 2024 on the file of the learned District Munsif cum Judicial Magistrate, Uthukottai.

For Petitioner : Mr.S.C.Pratheep Ashok Kumar

ORDER

The petitioner herein is the husband against whom the wife has initiated proceedings under Section 125 of Cr.P.C., seeking maintenance. The petitioner is before this Court to quash the maintenance case on the ground that as early as 2015, a permanent alimony has been given by him and therefore, maintenance complaint under Section 125 Cr.P.C., is not maintainable.



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Further, the learned counsel appearing for the petitioner would submit that the respondent has initiated Domestic Violence complaint and the same is also pending on the same Court. Therefore, there cannot be two prosecutions for the same cause of action.

3. On perusal of the record, this Court finds that the petitioner herein got married to the respondent on 10.03.2004 and thereafter, they had lived together hardly for few months and thereafter, due to misunderstanding the relationship was not cordial. However, they have two children. In the year 2013, they got separated leading to initiation of proceedings. The petitioner though claims that he has given permanent alimony, this fact has to be considered and decided in the trial Court where the proceedings under DV Act is pending. Since the matter are totally related to the appreciation of facts, this Court is not inclined to entertain this petition to quash and leave the matter to the trial Court for proper appreciation and decision in accordance with law.



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4. With the above observation, this Criminal Original Petition is disposed of. Consequently, the connected Criminal Miscellaneous Petition is closed.

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Index : Yes/No

Neutral Citation : Yes/No

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To

The District Munsif cum Judicial Magistrate, Uthukottai.



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Dr.G.JAYACHANDRAN,J.

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