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Crl.O.P.No.5193 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.5193 of 2025

and

Crl.M.P.No.3371 of 2025

Balamurugan

... Petitioner

Vs

Kanmani

... Respondent

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S., to set aside the order dated 18.03.2024 in Crl.R.C.09 of 2023 on the file II Additional District Cum Sessions Court, Chithambaram and Order of M.C.No.5 of 2021 dated on 05.01.2023 on the file of the District Munsif Cum Judicial Magistrate's Court, Kattumannarkoil.

For Petitioner : Mr.G.Murugendran

For Respondent : Mr.B.Ramprabu



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ORDER

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This petition has been filed challenging the order dated 18.03.2024 in Crl.R.C. No. 9 of 2023 on the file of the II Additional District cum Sessions Court, Chidambaram, thereby confirming the order passed by the District Munsif cum Judicial Magistrate Court, Kattumannarkoil, in M.C. No. 5 of 2021, dated 05.01.2023, thereby ordering monthly maintenance to the tune of Rs. 10,000/- payable by the petitioner in favour of the respondent herein.

2. Heard the learned counsel for both sides and perused the materials available on record.

3. The petitioner got married to the respondent and they have no issues. Due to misunderstandings and also the demand for huge dowry, the respondent was driven out from the matrimonial home. Therefore, the respondent is living separately and, as such, she is unable to maintain herself. Hence, she filed a petition for maintenance in M.C. No. 5 of 2021 on the file of the District Munsif cum Judicial Magistrate Court, Kattumannarkoil. In the meanwhile, the petitioner filed a petition for

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restitution of conjugal rights in H.M.O.P. No. 46 of 2020, and the same was allowed on 23.02.2022. Thereafter, the respondent filed a petition for divorce in H.M.O.P. No. 131 of 2021 on the file of the Family Court, Chidambaram. Thereafter, the respondent also filed a complaint in D.V.C. No. 2 of 2022 before the District Munsif cum Judicial Magistrate Court, Kattumannarkoil. Considering the facts and circumstances, the Trial Court awarded monthly maintenance payable by the petitioner to the tune of Rs.10,000/- in favour of the respondent herein. Aggrieved by the same, the petitioner preferred a revision in Crl.R.C. No. 9 of 2023 before the II Additional District cum Sessions Court, Chidambaram. Thereafter, the Appellate Court, by order dated 18.03.2024, dismissed the revision and confirmed the order passed by the Trial Court.

4. The learned counsel for the petitioner would submit that the respondent failed to file an affidavit stating about her assets before the Trial Court, as directed by the judgement of the Hon'ble Supreme Court of India reported in **2023 SCC OnLine SC 1451 (Aditi alias Mithi vs. Jitesh Sharma)**. He further submitted that the petitioner already filed a petition for restitution of conjugal rights, and the same was ordered in his favour,



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stating that there was no cruelty at the hands of the petitioner and the issue between the petitioner and the respondent is trivial in nature. Even then, the respondent failed to come to the matrimonial home and refused to live with the petitioner. That apart, the respondent is an engineer and she is earning herself. Therefore, she can maintain herself and need not be maintained by the petitioner. Hence, he prayed to allow the present petition.

5. On a perusal, it is revealed that the counter affidavit filed by the petitioner in M.C. No. 5 of 2021 did not whisper about the grounds raised by the petitioner in this Criminal Original Petition. The petitioner simply denied the allegations made in the maintenance case. That apart, in the domestic violence case, it was also allowed, and the petitioner was directed to pay a sum of Rs. 5,000/- for her right of residence in a rental house and was also awarded compensation to the tune of Rs. 5,00,000/- payable by the petitioner. That apart, the petitioner is running a banana wholesale business and earning Rs. 60,000/- per month, even at the time of filing of the maintenance case. Therefore, the Trial Court rightly awarded maintenance of Rs. 10,000/-, and the same was confirmed by the Appellate Court. As such, this Court finds no infirmity or illegality in the orders passed by both



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the Courts below.

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6. Accordingly, this Criminal Original Petition is dismissed.

Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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To

1. The II Additional District Cum Sessions Court,
Chithambaram.
2. The District Munsif Cum Judicial Magistrate Court,
Kattumannarkoil.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J,

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