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Crl.R.C.No.43 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.43 of 2025

and

Crl.M.P.No.249 of 2025

Anwardeen

... Petitioner

Vs.

Shamshath Begum

...Respondent

PRAYER: Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to call for the records in M.C.No.2 of 2021 on the file of the learned Judicial Magistrate Court-I, Ulundurpet and set aside the final order passed in C.M.P.No.21 of 2023 and dismiss M.C.No.2 of 2021.

For Petitioner : Mr.V.Giri Shankar

ORDER

The revision challenges the dismissal of the petitioner's application filed to dismiss the maintenance case filed by the respondent, on the sole ground that the respondent had suppressed the fact that she was not legally divorced from her ex-husband.



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2.It is the case of the petitioner that the respondent made the petitioner believe that she had legally divorced her ex-husband but he came to know later that the respondent had not obtained divorce and hence she is not entitled to maintenance. He therefore filed a petition to dismiss the maintenance case.

3.The said petition was dismissed by the trial Court on the ground that the question whether the previous marriage is subsisting is not relevant for the purpose of the case and that since the petitioner and the respondent had lived as husband and wife for four years, no cause has been shown for dismissing the maintenance case *in limine*.

4.This Court finds no infirmity in the said order. The issue as to whether the petitioner is liable to pay maintenance to the respondent has to be decided by the learned Magistrate after considering the evidence adduced by the parties. The prayer to dismiss the maintenance case *in limine* cannot be



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maintained on the facts of the case, as admittedly the petitioner was living with the respondent for about 4 years. Hence there is no reason to interfere with the impugned order. However, it is open to the respondent to raise all his contentions before the learned Magistrate and the learned Magistrate may consider the same without being influenced by any of the observations made in this order.

5. Accordingly, the Criminal Revision Case is dismissed.

Consequently, the connected Criminal Miscellaneous Petition is closed.

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Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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SUNDER MOHAN, J.

rsi

To

1.The Judicial Magistrate Court-1,
Ulundurpet.

2.The Public Prosecutor,
High Court, Madras.

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