



C.R.P(PD)(MD)No.842 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P(PD)(MD)No.842 of 2019

J.Rajesh

... Petitioner /Petitioner/Petitioner

.Vs.

Rajamani

.. Respondent /Respondent/1st Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 27.05.2019 made in I.A.No. 317 of 2019 in H.M.O.P.No.1110 of 2018 on the file of the Family Court, Madurai.

For Petitioner : Mr.Niranjana Kumar

For Respondent : No Appearance

ORDER

The husband in matrimonial proceedings sought for marking an order of this Court in H.M.O.P.No.1162 of 2017 and also a pendrive containing photographs and exchange of messages between his wife

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and the alleged adulteror. The Family Court allowed the application in part and directed the receipt of the order in H.M.O.P.No.1162 of 2017. However, the Family Court rejected the application insofar as the receipt of the pendrive was concerned. The present revision is directed against the said disallowed portion of the order of the Family Court.

2. Heard the learned counsel for the revision petitioner. There is no representation for the respondent. Even on earlier occasions, the respondent has not appeared before this Court.

3. The learned counsel for the revision petitioner would submit that the Family Court erred in dismissing the application on the ground that the pendrive containing E-mail, photographs and text messages exchanged between his wife and the second respondent in the H.M.O.P. proceedings, who is the alleged adulteror are necessary to establish his case and the Family Court ought not to have fallen back on Section 65 of Indian Evidence Act to non-suit the husband. He would also place reliance of this Court in *R.Nandhini Vs. T.E.Nandakumar* reported in *[2018] 0 Supreme (Mad) 3219* in support of his contentions.



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4. Section 14 of the Family Courts Act, enables the Family Court to receive in evidence, reports, statements, documents, information, or any other matter that may, in the opinion of the Family Court, assist in dealing effectively with the dispute, irrespective of whether the said documents or reports, etc., are admissible under the Indian Evidence Act or not.

5. The Family Court, unfortunately, relied on Section 65B of the Indian Evidence Act and dismissed the application insofar as the receipt of the pendrive was concerned. The said order is therefore, clearly against the letter and spirit of Section 14 of the Family Courts Act. This issue has also been directly answered by a learned Single Judge of this Court in the aforementioned ***R.Nandhini Vs. T.E.Nandakumar's*** case.

6. For all the above reasons, I am of the considered view that the petitioner ought to have succeeded in seeking to file the pendrive as one of the documents to establish his case of cruelty and adultery. The reasoning of the trial Court that the pendrive cannot be accepted in



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evidence is contrary to section 14 of the Family Courts Act and the trial Court, placing reliance on the provisions of the Indian Evidence Act, is therefore, liable to be set aside.

7.The Civil Revision Petition is allowed and the Family Court is directed to receive the pendrive and mark the same as an exhibit on the side of the revision petitioner. It would be open to the respondent/wife to dispute/disprove the contents of the pendrive in a manner known to law.
No costs.

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
SJI

06.12.2023

To

- 1.The Family Court, Madurai.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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P.B.BALAJI,J.

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