

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 10.7.2015.

CORAM

THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN
AND
THE HON'BLE MR.JUSTICE T.MATHIVANAN

C.M.A.No.1070 of 2015

M.Selvi

... Appellant/Respondent

vs.

R.Madheswaran

... Respondent/Appellant

Civil Miscellaneous Appeal against the order dated 2.3.2015 in I.A.No.21 of 2014 in H.M.O.P.No.82 of 2014 on the file of the Family Court, Erode & District.

For appellant : Mr.V.Bhiman for
Mr.I.C.Vasudevan

For Respondents : Mr.M.Guruprasad

JUDGMENT

(Order of the Court was delivered by V.RAMASUBRAMANIAN, J.)

The petitioner, whose application for payment of interim alimony was rejected by the Family Court, has come up with the above appeal.

2. Heard Mr.V.Bhiman, learned counsel appearing for the appellant and Mr.M.Guruprasad, learned counsel appearing for the respondent.

3. The respondent filed a petition in H.M.O.P.No.235 of 2012 on the file of the II Additional Sub Court, Erode for divorce on the ground of cruelty. After the constitution of the Family Court, it was transferred to the Family Court, Erode and re-numbered as H.M.O.P.No.82 of 2014.

4. Pending the main petition for divorce, the petitioner sought interim alimony by filing an application in I.A.No.21 of 2014. The Family Court awarded a sum of Rs.3000/- as interim alimony for two minor children. The Family Court rejected the claim of the appellant on the ground that she was employed. Hence, the wife is before us.

5. The only evidence, on the basis of which the court below came to the conclusion that the appellant was employed, is a compact disc containing a video taken to show that the appellant was employed in a shop. The person, who took the video, was examined as RW2. But, the video CD marked as Ex.P3 was stealthily taken. The attempt to prove the employment of the appellant was by way of a sting operation. Therefore, the same cannot be taken to be the absolute truth. The appellant has stated that she was taken to a shop and made to enter into a conversation and the conversation was videographed without her knowledge. The respondent ought to have summoned the owner of the shop to prove whether the appellant was employed or not. Therefore, we are of the considered view that fixing some amount towards interim alimony for the appellant and directing the Family Court to dispose of the main H.M.O.P. within a time frame will meet the ends of justice.

6. Therefore, this appeal is allowed. The order of the Family Court rejecting the request of the appellant for alimony is set aside. Apart from the interim alimony of Rs.3000/- per month for two children awarded by the Family Court, the respondent shall also pay a sum of Rs.3000/- per month to the appellant from the date of the order of the Family Court. The arrears shall be paid within a period of four weeks from the date of receipt of copy of this order. The court below is directed to dispose of main H.M.O.P. within a period of two ***months** from the date of receipt of copy of this order. No costs.

Sd/-
Assistant Registrar(CS IV)

***Corrected as per order of this
court dated 27.08.2015 made in CMA
No.1070 of 2015 by VRSJ & TMJ
Sd/- Assistant Registrar (CS-II)
Dated : 28.08.2015**

//True Copy//

Sub Assistant Registrar

ssk.

To

The Judge, Family Court,
Erode & District.

To be substituted to
the already despatched
on 26.08.2015

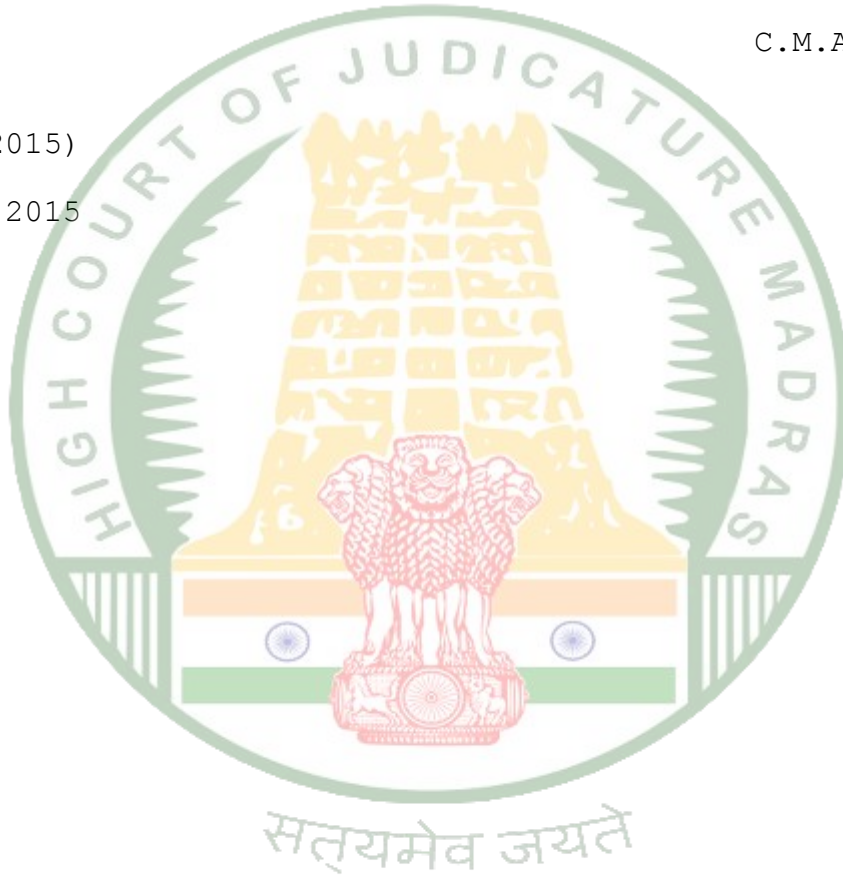
+1cc to Mr.I.C.Vasudevan, Advocate, S.R.No.45957

+1cc to Mr.M.Guruprasad, Advocate, S.R.No.46021

C.M.A.No.1070 of 2015

TEJ(CO)
CA(05/08/2015)

PSI 28.08.2015



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