

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2015

CORAM:

THE HON'BLE **MS. JUSTICE R.MALA**

C.R.P.(PD).No.1528 of 2013

and

M.P.No.1 of 2013

T.R.Manikandan
S/o.Ramasamy

.. Petitioner/Petitioner/Petitioner

Vs.

Indira @ Saidevi
W/o.R.Manikandan

.. Respondent/Respondent/Respondent

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 19.03.2012 made in I.A.No.71 of 2011 in H.M.O.P.No.176 of 2005 on the file of the Subordinate Judge, Namakkal.

For Petitioner : Mr.G.Vinodh Kumar

For Respondent : Mr.Rajesh Ramanathan

ORDER

Heard the learned counsel appearing for the revision petitioner and the learned counsel for the respondent.

2. The revision petitioner has come forward with the present Civil Revision Petition challenging the impugned order dated 19.03.2012 made in I.A.No.71 of 2011 in H.M.O.P.No.176 of 2005, wherein the application filed under Order 6 Rule 17 CPC came to be dismissed.

3. The learned counsel appearing for the revision petitioner would submit that the petitioner/husband has filed H.M.O.P.No.176 of 2005 for divorce on the ground of cruelty. During the pendency of the said proceedings, the respondent/wife preferred a complaint against the petitioner before the police station and a case was registered against him under Sections 498-A r/w 34, 307, 307 r/w 109 IPC and Sections 3 and 4 of the Dowry Prohibition Act. After investigation, Chargesheet was also filed in S.C.No.129 of 2006. Hence, the petitioner/husband filed an application in I.A.No.71 of 2011 in H.M.O.P.No.176 of 2005, under Order 6 Rule 17 CPC to incorporate

the said facts in the main application. However, the Trial Court after hearing both sides had dismissed the said application and as against the same, the present Civil Revision Petition has been preferred.

4. Resisting the same, the learned counsel for the respondent would submit that the case had already ended in conviction and the appeal made by the petitioner was also dismissed, thereby confirming the conviction. So, the learned counsel for the respondent would submit that there arises no necessity to amend the petition as sought for by the petitioner. Furthermore, according to the learned counsel for the respondent, the respondent/wife has got no objection for granting divorce. Hence, he prayed for dismissal of the Civil Revision Petition.

5. Considered the rival submissions made by both sides.

6. The petitioner/husband has filed HMOP.No.176 of 2005 for divorce on the ground of cruelty. While so, the amendment that is now sought to be added as paragraph 9-A in the petition describes only about the complaint that is preferred against the petitioner/husband and the said incidents had taken place only during the pendency of the proceedings and the same is not relevant for

disposal of the case.

7. In such circumstances, I am of the view that the amendment sought for is not relevant for the proper adjudication of the matter, particularly when the respondent/wife is ready and willing to grant divorce, even according to the learned counsel for the respondent.

8. Hence, I do not find any reason to interfere with the order passed by the Trial Court and accordingly, the Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

9. At this juncture, the learned counsel for the respondent sought for earlier disposal of the proceedings. Considering the submission made by the learned counsel for the respondent that the respondent is ready and willing to grant divorce, the Subordinate Judge, Namakkal is directed to dispose of H.M.O.P.No.176 of 2005, within a period of two months from the date of receipt of a copy of this order.

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To

The learned Subordinate Judge,
Namakkal.

R.MALA, J.

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