

THE HONOURABLE SRI JUSTICE G. CHANDRAIAH

CRP No.4210 of 2015

Oral Order :

This Civil Revision Petition has been filed challenging the order dated 13.8.2015 passed in I.A.No.810 of 2015 in HMOP No.46 of 2011 on the file of the court of the Principal Senior Civil Judge, Machilipatnam, Krishna District in dismissing the petition filed under Section 45 of the Indian Evidence Act seeking to send Ex.A.3 for expert opinion.

Before the Court below the petitioner herein filed two interlocutory application – I.A.No.809 of 2015 under Section 151 of CPC seeking to reopen the evidence of the petitioner, and I.A.No.810 of 2015 under Section 45 of the Indian Evidence Act seeking to send Ex.A.3 for expert's opinion.

The Court below by its impugned common order dated 13.8.2015 has dismissed both the interlocutory applications. Challenging the same the petitioner filed two Civil Revision Petitions before this Court i.e. CRP No.3815 of 2015 challenging the order insofar as dismissing the I.A.No.809 of 2015 seeking to reopen the evidence of the petitioner and also the present CRP No.4210 of 2015. In this present Civil Revision Petition, which is posted today, the petitioner challenges the order

of the court below in dismissing the I.A.No.810 of 2015 seeking to send Ex.A.3 for expert opinion.

Heard the learned counsel for the petitioner.

Brief facts which are necessary for disposal of this CRP are that – the petitioner herein filed HMOP No.466 of 2011 for divorce on the ground of cruelty mainly contending that the respondent-wife had harassed him, she ill-treated him and she had not performed her duties as a dutiful wife. In that OP, evidence of both the parties was completed by 20.2.2015, later the main O.P. stood adjourned for arguments.

At that stage, the petitioner herein chosen to introduce Ex.A.3 letter by filing I.A.No.810 of 2015 stating that she even commented the petitioner as 'kojjavada' and thus, he was subjected to mental agony. He further averred that she always treated him to be impotent and Ex.A.3 is explicit of such facts. According to the petitioner in Ex.A.3 letter the respondent made allegations which affects his dignity, status, self respect and it had substantially caused mental agony, and that when Ex.A.3 letter was confronted to the respondent, she denied writing the same and therefore it is necessary to send Ex.A.3 letter to an expert to elicit out whether it was written by the respondent or not. As stated above, along with the said I.A.No.810 of 2015, the petitioner sought for reopening of his evidence by filing I.A.No.809 of 2015.

Learned counsel for the petitioner would submit that

the letter addressed by the respondent herein affects the dignity, status, self respect of the petitioner and caused mental agony to him, and as the same was denied by the respondent-wife to elicit out whether it was written by the respondent-wife, the court below ought to have allowed the I.A.

As seen from the record the petitioner after cross examination he recalled himself vide orders in I.A.No.273 of 2015 and in his further evidence he had chosen to file Ex.A.3 letter said to have been written by the respondent-wife. When the petitioner was examined in cross, the respondent denied writing Ex.A.3 letter and in the cross examination of the respondent, the petitioner did not confront Ex.A.3 letter with the respondent. Therefore the Court below came to the conclusion that when the Ex.A.3 was not confronted, it cannot be said that she had chosen to deny the text as well as the signature appearing on Ex.A.3. That apart the petition stands posted for arguments since February 2015 whereas the present petition was filed in the month of June 2015. The Court below considering the facts and circumstances of the case, rightly dismissed the I.A. I do not see any illegality, irregularity or error of jurisdiction in the impugned order. The Civil Revision Petition is meritless and is dismissed at the admission stage. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE G.

CHANDRAIAH

Dt:14-12-2015

KK

THE HONOURABLE SRI JUSTICE G. CHANDRAIAH

CRP No.4210 of 2015

14.12.2015