

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.1338 of 2015

&

M.P.Nos.1 & 2 of 2015

R.Vasu

... Petitioner

Vs.

Mrs.Shoba

... Respondent

Criminal Revision filed under section 397 and 401 Cr.P.C. against the judgment of the learned IV Additional Sessions Judge, Chennai and set aside the order dated 30.09.2015 confirming the order passed by the learned X Metropolitan Magistrate, Egmore, Chennai in M.P.No.90 of 2013 in C.C.No.2083 of 2012 by an order dated 30.08.2013.

For Petitioner : Mr.H.Rajasekar

For Respondent : No Appearance

O R D E R

This revision challenges the order passed by the learned IV Additional Sessions Judge, Chennai on 30.09.2015 in C.A.No.203 of 2013.

2. The respondent has been served, but none appears on her behalf. The respondent moved C.C.No.2083 of 2012 before the X Metropolitan Magistrate, Egmore, Chennai on 15.05.2012, therein the allegations stand made out not only against the petitioner/husband, her parents-in-law, but also against her own parents, they having been arrayed as respondents 7 and 8. Not having informed anything about her educational certificates being in the possession of the petitioner, she has moved a petition in Crl.M.P.No.90 of 2013 on 21.01.2013 alleging that her certificates were held by the petitioner. This petitioner has filed a counter in such petition informing that the respondent had left the matrimonial home on 05.10.2011 and in such instance had taken also her certificates. The petitioner has further informed that such position was to the knowledge of the respondent's father. Aggrieved by an order allowing

CrI.M.P.No.90 of 2013 without any consideration of the contentions of the petitioner, the petitioner has moved C.A.No.203 of 2013, which came to be dismissed by the IV Additional Sessions Judge, Chennai on 30.09.2015. Thereagainst, the petitioner has moved the present revision.

3.Heard learned counsel for petitioner and learned Government Advocate (CrI.side).

4. As stated earlier, the Court below of first instance has not appreciated the contention of the petitioner. The Court below/appellate Court held to the effect that the petitioner has not proved that the respondent had taken away her belongings on 05.10.2011. It has also faulted the petitioner for not having entered the witness box or not having examined any witness in this regard. It is to be seen that neither has the respondent entered the witness box to prove her allegations. The Court below has, on consideration that as a single woman, the respondent should be afforded an opportunity to pursue her career towards supporting herself has been pleased to dismiss the appeal. The Courts below have failed to consider that the respondent's contention of her certificates being held by the petitioner has not been raised in her petition for dissolution of marriage moved in O.P.No.150 of 2011 before the Sub-Court, Arakkonam on 19.10.2011 nor in the original application filed in C.C.No.2083 of 2012 on 15.05.2012. It is repeated contention of the petitioner that he does not hold the respondent's certificates. Requiring the petitioner to produce documents which are not proved to be in his custody would be erroneous. It is seen that the certificates which the respondent seeks are the following:

1. +2 Mark Statement
2. 10th and +2 Transfer Certificate
3. 10th Mark Sheet
4. Birth Certificate etc.,

All the documents sought by the respondent are those which she can obtain certified copies of on due application.

For the said circumstances, this revision is allowed and the order of the learned IV Additional Sessions Judge, Chennai dated 30.09.2015 made in C.A.No.203 of 2013 is set aside. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gpa

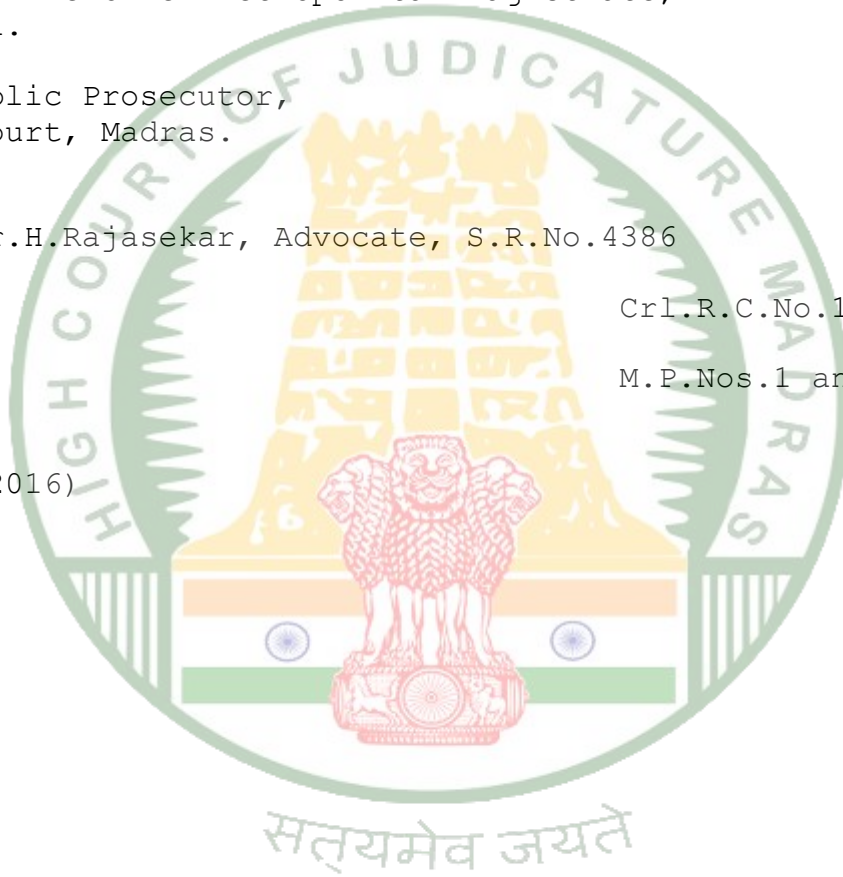
To

1. IV Additional Sessions Judge
Chennai
2. X Metropolitan Magistrate
Egmore, Chennai
3. Through The Chief Metropolitan Magistrate,
Chennai.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.H.Rajasekar, Advocate, S.R.No.4386

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SAI (CO)
CA(04/03/2016)



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