

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.966 of 2016
and
Crl.M.P.No.7677 of 2016

Kumaravel .. Petitioner
Vs.

1. G.Kavitha
2. Minor Asvitha
represented by her next
friend and guardian 1st respondent .. Respondents

Criminal Revision filed under Sections 397 and 401
Cr.P.C. against the order of learned Judicial Magistrate No.I,
Sankari, passed in Crl.M.P.No.6997 of 2014 in M.C.No.5 of 2010
on 10.03.2016.

For Petitioner : Ms.S.Hemalatha

For respondents : Mr.N.Manokaran

ORDER

This revision challenges the order of learned Judicial
Magistrate No.I, Sankari passed in Crl.M.P.No.6997 of 2014 in
M.C.No.5 of 2010 on 10.03.2016.

2. The respondents have sought maintenance under section
125 Cr.P.C. Petitioner/husband sought making of a CD allegedly
containing phone conversations with the wife towards
establishing wife held Rs.40,00,000/- belonging to him. In
dismissing of such application, court below found Section 65B of
the Indian Evidence Act had not been complied with. It further
reasoned that

"10. Considering the fact of the case,
there were several legal proceedings between the
petitioner and the respondent. Earlier the
petitioner has sent a legal notice dated
03.09.2008 to the respondent, in which he has
clearly stated the facts regarding Rs.40,00,000/-
taken away by this respondent/wife. But he

failed to state about mobile phone conversation which occurred on 04.04.2008. After that, subsequent proceedings namely the petitioner herein has filed the counter statement for the main case, in which also he failed to state about mobile phone conversation.

11. The conversation between the petitioner and respondent occurred on 04.04.2008. But as per 03.09.2008 dated legal notice, the alleged amount of Rs.40,00,000/- was taken away by this respondent/wife which occurrence had happened on 10.04.2008. Hence on considering the above said fact the mobile phone conversation has occurred earlier before the occurrence of alleged amount of Rs.40,00,000/- taken away by respondent and her family persons. Hence this facts creates serious doubts regarding the mobile phone conversation.

12. Further, for proof of mobile phone conversation the petitioner did not file any call register. At present call register is available one, it can be received from concerned mobile company for proof of conversation regarding detailed calls and received calls. In the instance case concerned the petitioner failed to do so. Hence this also creates doubts regarding the mobile phone conversation."

In the circumstances, this Court finds no reason to interfere with the order under challenge.

4. The Criminal Revision Petition shall stand dismissed. Connected miscellaneous petition is closed. Any observations made herein above are only towards effective disposal of this revision and shall have no bearing on the merits of the case of either party.

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Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

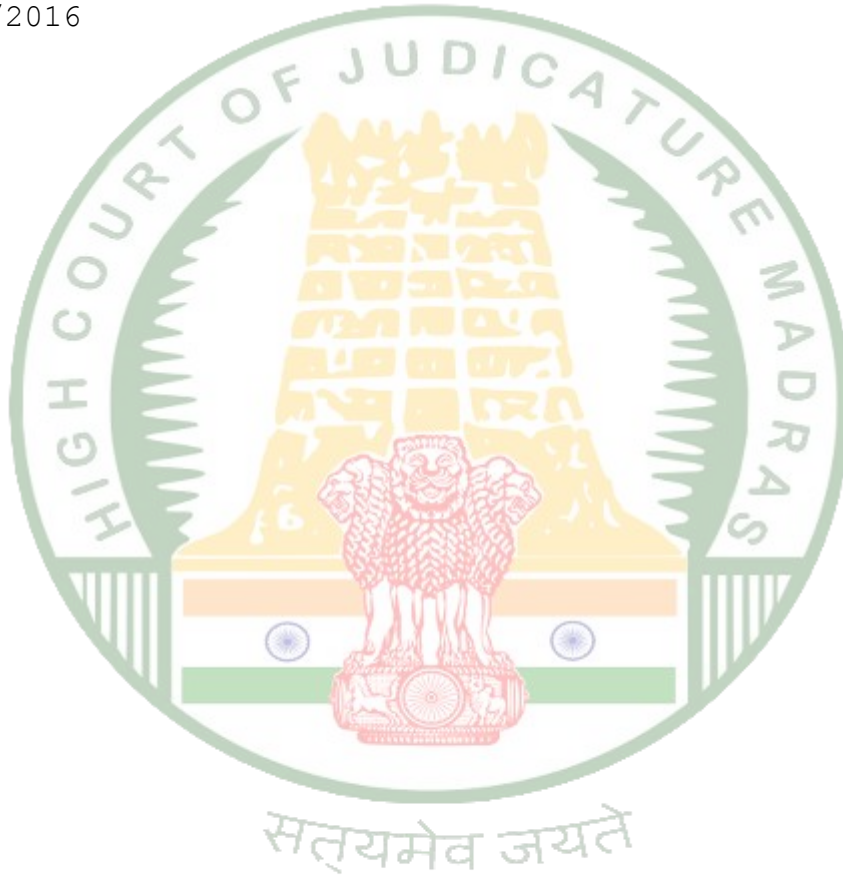
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To

The Judicial Magistrate No.I,
Sankari.

CrI.R.C.No.966 of 2016

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