



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2016

CORAM:

THE HONOURABLE DR. JUSTICE S.VIMALA

Crl.O.P. (MD) .No.9476 of 2016
and
Crl.M.P. (MD) .No.4756 of 2016

C.Saravanan

.. Petitioner/Petitioner/
Respondent

Vs.

1.Paramathma Devi

2.Minor Sahana
rep. by the mother/natural guardian
the first respondent herein.

.. Respondents/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records relating to the order dated 29.01.2016 made in Cr.M.P.No.114 of 2015 in M.C.No.32 of 2014 on the file of the Family Court, Dindigul and set aside the same as illegal.

For Petitioner : Mr.J.Sulthan Basha

ORDER

This petition has been filed challenging the dismissal order passed by the Family Court, Dindigul, in Crl.M.P.No.114 of 2015 in M.C.No.32 of 2014, dated 29.01.2016.

2.The petitioner/husband had filed a petition under Section 91 Cr.P.C. praying to summon the salary details of the the first respondent herein / wife and it has been dismissed by the Court below which is under challenge in this petition.

3.It is a case of the husband that the wife is employed in Canara Bank as a Jewel Appraiser. This fact is also admitted by the wife, but the husband has filed an application to call for salary details of the wife from (i) M/s.Muthoot Finance, Ernakulam, Kochi,



Kerala; (ii) M/s.Indian Info Line Finance Limited, Mumbai; (iii) Canara Bank, Circle Office, Cantonment, Trichy; (iv) Employees Provident Fund Organization, Kaloore, Kerala; and (v) Income Tax Department, Dindigul.

4.The learned Family Court Judge, Dindigul has dismissed the application on two grounds: (a) the petitioner/husband took six months time to carry out minor correction in the petition to set aside the *ex parte* order and thereafter also he took several times for cross examination of PW1; and (b) the stage at which the application has been filed i.e, after the cross examination of PW1 and the case is posted for the evidence of the husband, would indicate the intention to drag on.

5.When the documents to be called for pertain to the salary details of the wife, necessarily the application ought to have been filed before the commencement of the examination of the wife. If the relief sought for the petitioner is allowed, once again PW1 has to be recalled for further examination.

6. More over, the finance position of the wife on the date of filing of the petition alone is relevant. With regard to her previous employments and previous earnings, there is no averment in the counter of the husband. Under such circumstances, the earlier income of the wife is not going to serve any purpose. The fact remains that she herself admitted her position as Jewel Appraiser in Canara Bank. Under such circumstances, the dismissal of the petition under Section 91 Cr.P.C. cannot be said to be unreasonable or illegal.

7.At this juncture, the learned counsel for the petitioner wanted a document issued by the Canara Bank under the Right to Information Act to be taken into account. The respondent/wife herself has admitted that she is a Jewel Appraiser having been empanelled by the Canara Bank. More over, what is stated in the document is that the respondent / wife is empanelled as a Jewel Appraiser of the Batlagundu Branch with effect from 04.12.2013. Nothing more is mentioned in the answer given under the Right to Information Act.

8.At last, the learned counsel for the petitioner herein wanted a direction for speedy disposal of the case. The dismissal of the petition itself aimed towards speedy disposal of the case. But for the procrastination committed by the petitioner herein, there is no impediment for speedy disposal. This Court hope that the petitioner would not indulge in such steps. Therefore, the learned Family Court Judge, Dindigul, is directed to dispose of M.C.No.32 of 2014 within a period of one month from the date of receipt of a copy of the order.



9.This Criminal Original Petition is disposed of accordingly.
Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

The Judge, Family Court,
Dindigul.

Copy To:-

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO M/S.AJMAL ASSOCIATES, ADVOCATE IN SR No. 31646/16

GCG

TE/SKS-RR/ : 18/07/2016 : 3P/4C

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and
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