



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.02.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.484 of 2016 (PD)

and

M.P(MD)No.2086 of 2016

Senthilkumar

..Petitioner/Petitioner/petitioner.

Vs.

Murugeswari

..Respondent/Respondent/Respondent.

PRAYER: Civil Revision Petition is filed, under Article 227 of Constitution of India, to set-aside the fair order and decretal order, dated 06.02.2016 passed in I.A.No.24 of 2016 in H.M.O.P.No.444 of 2013 on the file of the III Additional Sub-Court, Madurai by allowing this Civil Revision Petition.

For Petitioner : Mr.R.Manoharan

ORDER

The petitioner is the husband. The respondent is the wife. The petitioner filed H.M.O.P.No.444 of 2013, on the file of the III Additional Sub Court, Madurai, for divorce, on the ground of cruelty. The respondent filed counter statement and trial has commenced and examination of witnesses were closed. At that time, the petitioner filed I.A.No.24 of 2016 to re-open the case. According to the petitioner, the respondent is having illegal contact with one Murugesan. It was videoed through mobile phone. To prove the case of the petitioner, it is necessary to produce that cell phone, memory card and C.D. Therefore, the petitioner prayed for allowing the application to re-open the case. In the said I.A., the respondent filed counter affidavit and denied the allegations made by the petitioner. The respondent stated that the petitioner has filed a petition only for the purpose of getting divorce to marry his sister's daughter by name Deepika. The petitioner has not given the details of when was videograph taken and he has not filed the documents along with application and prayed for dismissal of the application. The learned Judge considering the facts and materials on record, dismissed the application filed by the petitioner. Against the said order of dismissal, the petitioner has filed the present Civil Revision Petition.

2.The learned counsel for the petitioner submitted that the learned Judge failed to see that the relief sought for by the petitioner is to prove his case. The petition is filed only to determine the HMOP and if the petition is ordered, it will not affect the right of the respondent.



3.I have heard Mr.R.Manoharan, learned counsel appearing for the petitioner and also carefully perused the entire materials on record.

4.From the records, it is seen that the petitioner has filed the H.M.O.P.No.444 of 2013 in the year 2013 for divorce, on the ground of cruelty. In the present application, the petitioner has stated that the respondent is having illegal relationship with one Murugesan and on 20.07.2011 the parents of the petitioner saw the same in person and the same was recorded by them and the said CD is in his possession. At the time of giving evidence, the said fact was not disclosed by the petitioner. It is deposed that the petitioner and respondent were residing separately. The petitioner is residing at present in Singapore. The petitioner has sought divorce on the ground of cruelty only and not on the ground of adultery. In the circumstances, the learned Judge considering the facts and judgment relied on by the counsel for the parties, rejected the application filed by the petitioner by giving cogent and valid reason. The said order does not warrant interference by this Court.

5.In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar.

To
The III Additional Subordinate Judge,
Madurai.

+1CC to M/S.R.Manoharan, Advocate, SR.No.11903

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