

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 28.08.2017****CORAM****THE HONOURABLE MR. JUSTICE R. SURESH KUMAR****Crl.R.C.No.151 of 2017**
and Crl.MP.No.1706 of 2017

Razia Begum

... Petitioner

Vs.

Shabana Begum

... Respondent

Criminal Revision filed under Section 397 read with 401 Cr.P.C. to set aside the order dated 02.11.2016 made in CMP.No.654 of 2016 in C.C.No.86 of 2015 on the file of the learned Judicial Magistrate No.I, Chidambaram, by allowing the revision petition.

For Petitioner : Mr.M.Saravana Kumar

ORDER

This revision case has been filed against the order passed by the learned Judicial Magistrate No.I, Chidambaram, in CMP.No.654 of 2016 in C.C.No.86 of 2015 dated 02.11.2016.

2.The petitioner is the accused in the said case before the trial Court, where the examination of witnesses on the side of the complainant/respondent had been completed.

3.During this period, the petitioner, who is the mother-in-law of the respondent and because of her age, she claimed dispensing with her presence before the trial Court by filing petition under Section 317 of CrPC.

4.The said petition filed by the petitioner time and again had been accepted by the trial Court.

5.At one point of time, the witnesses on the side of the complainant had been examined and therefore, it is for the petitioner, i.e., the accused to present before the Court and to further proceed with the case.

6.At this juncture, the present petition under Section 205 of CrPC was filed by the petitioner to dispense with her presence for all future appearances.

7.However, the said petition after having been considered, had been dismissed by the trial Court stating that whenever the petition under Section 317 of CrPC was filed, that was considered and accepted by the Court. However, when the stage has reached, where the petitioner has to appear and co-operate with the trial Court to proceed with the matter further, the present petition under Section 205 of CrPC was filed and on that ground, the same was rejected.

8.I have heard Mr.M.Saravana Kumar, learned counsel appearing for the petitioner.

9.Though notice had been served privately on the respondent and her name also printed in the cause list with full address, no one is appearing before this Court on behalf of the respondent.

10.Since the trial before the Court below has reached a stage, where the presence of the petitioner/accused is essential, according to the trial Court, it cannot be said that

the petitioner can permanently seek exemption from appearing before the Court by filing petition under Section 205 of CrPC. Therefore, there is every justification on the part of the trial Court at that stage.

11. However, since the petitioner is a lady and according to the learned counsel appearing for the petitioner, she has to travel 90 Kilometers from her residence to Court on every hearing, the petitioner is facing difficulty to attend the trial can be considered. Therefore, in the circumstances of the case, this Court is of the view that though the present impugned order is not liable to be interfered with, however, direct the learned Judge of the trial Court to entertain the petition, if any be filed by the petitioner under Section 317 of CrPC and the same can be decided depending upon the requirement of the presence of the petitioner in a particular date.

12. With these observations, the present Revision Case is disposed of.

Since the said petition is filed by the mother-in-law against the daughter-in-law and the respondent/accused is an aged woman, has to travel all along 90 Kilometers to attend the Court for every hearing, some preference can be given by the trial Court to take up the main case and decide the same on merits, preferably within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

28.08.2017

Index :yes/no
Internet :yes/no

mps

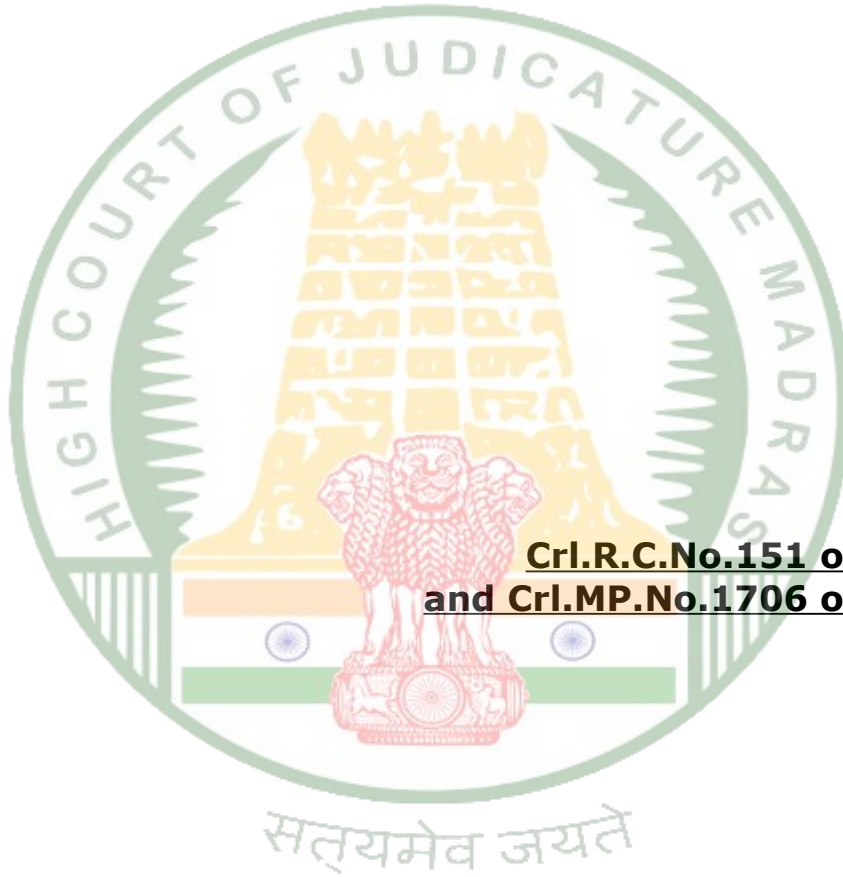
To

The Judicial Magistrate No.I,
Chidambaram.

WEB COPY

R. SURESH KUMAR, J

mps



Crl.R.C.No.151 of 2017
and Crl.MP.No.1706 of 2017

WEB COPY