

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1981 of 2017
& C.M.P.No.9587 of 2017

Rejitha

.. Petitioner

Vs.

Vikram V.Rajkumar

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decree order dated 14.12.2016 made in I.A.No.2041 of 2016 in O.P.No.4236 of 2013 on the file of the II Additional Family Court, Chennai.

For Petitioner : Mr.S.Senthil Nathan

For Respondent : Mr.R.Esakkiraja

ORDER

This Civil Revision Petition has been filed against the order and decree order dated 14.12.2016 made in I.A.No.2041 of 2016 in O.P.No.4236 of 2013 on the file of the II Additional Family Court, Chennai.

2. The petitioner/wife is the respondent and the respondent/husband is the petitioner in O.P.No.4236 of 2013. The respondent/husband has filed in the above original petition for divorce on the ground of cruelty.

3. The petitioner filed I.A.No.2041 of 2016 in O.P.No.4236 of 2013 for filing additional documents such as Photos, CD's, Videos, What's app details etc., The respondent opposed the same on the ground that the documents sought to be marked are not primary evidence and the copies taken from primary evidence cannot be marked. The learned Judge considering the averments made in the affidavit, counter affidavit and arguments of the learned counsel for the parties allowed the petition and permitted the respondent to file photos, CDs and Whats app details etc., as additional documents in main original petition subject to proof and relevancy.

4. Against the order made in I.A.No.2041 of 2016 dated 14.12.2016, the petitioner filed the present civil revision petition.

5. Heard the learned counsel for the petitioner and respondent

and perused the materials available on record.

6. The petitioner filed I.A.No.2157 of 2015 claiming maintenance against the respondent. The respondent opposed the said application on the ground that the petitioner is leading adulterous life and she is not entitled to the maintenance. The respondent on earlier occasion filed I.A.No.1812 of 2016 for permitting the respondent to mark the documents, photograph, bank statement. The said application was allowed on 14.12.2016. The petitioner challenged the said order by filing C.R.P.(PD)No.1130 of 2017. This Court by order dated 22.03.2017 in paragraph 4 held as follows.

"4. It is settled position that a document can be marked only through the author of the document or if a photograph is being marked, it can be marked only through the person who has taken the photograph. Similarly, it is the case of videograph also. In the case on hand, the respondent sought to mark the document through himself, which cannot be permitted. Admittedly, the respondent is

not the person who has taken the photographs. That being the case, in view of the order passed by this Court in CRP(PD) No. 2916 of 2016, the respondent can be allowed to mark the photographs and videograph through the person who has taken the photographs and videograph."

7. In view of the said finding this Court directed the family Court to eschew the said document already marked and permitted the respondent to mark the said document through the photographer. The said order was passed in the same proceeding between the same parties and the said order is squarely applicable to the facts of the present case. In view of above reason, the impugned order of learned Judge permitting the respondent to file Photos, CD's, Videos, and other documents etc., as additional documents is modified as the respondent is permitted to mark the said documents through the author of said document subject to admissibility and relevancy of the marked additional documents.

8. With the above modification, the civil revision petition is disposed of. No costs. Consequently, connected miscellaneous

petition is closed. Already there is a direction by this Court dated 22.03.2017 to dispose of O.P.No.4236 of 2013 as expeditiously as possible, and in any event, Original Petition shall be disposed of not later than 31.08.2017.

9. The learned counsel for the parties submitted that the learned Judge may be directed to dispose I.A.No.2157 of 2015 within a time frame to be fixed by this Court. In view of the said submissions the learned Judge is directed to dispose of I.A.No.2157 of 2015 within a period of 15 days, from the date of receipt of a copy of this order. Thereafter, the learned Judge is directed to dispose of O.P.No.4236 of 2013 as directed above.

29.06.2017

Index : Yes
dm/jv

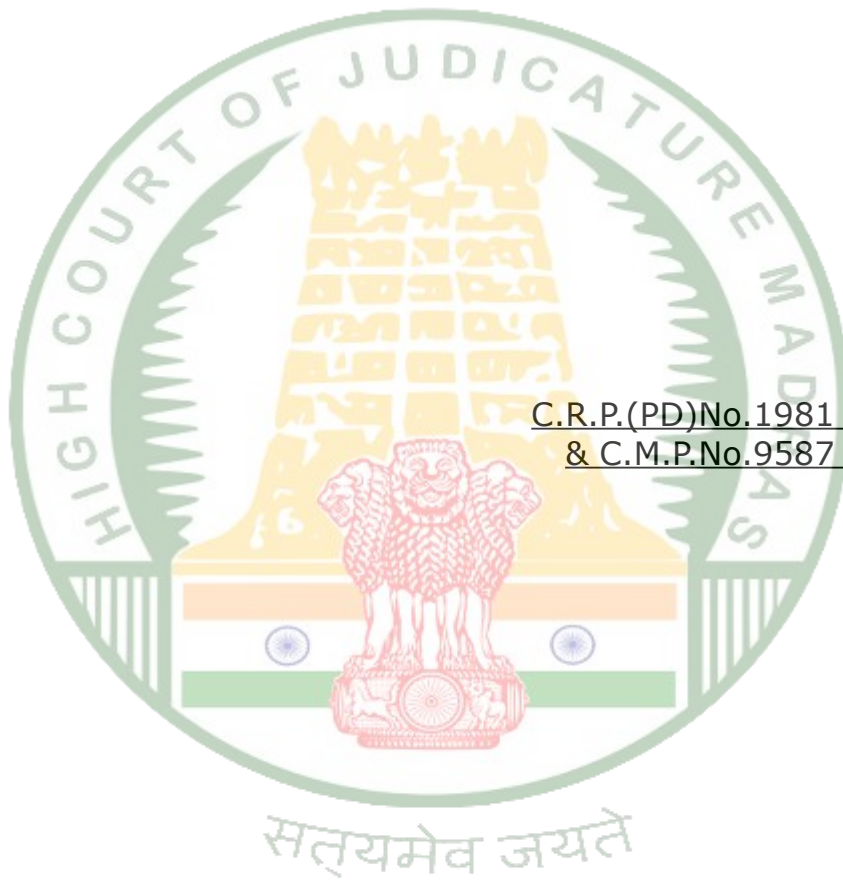
To

The II Additional Family Court,
Chennai.

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V.M.VELUMANI, J.

dm/jv



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