

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3690 of 2014

Rajaram Vijayan

.. Petitioner

Vs.

Krithika Seshadri

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 24.07.2014 passed by the learned Sub-Judge, Tambaram, in I.A.No.177 of 2014 in H.M.O.P.No.5 of 2012.

For Petitioner : M/s.S.P.Arthi

For Respondent : No appearance

ORDER

This Civil Revision Petition is filed against the order dated 24.07.2014 passed by the learned Sub-Judge, Tambaram, in I.A.No.177 of 2014 in H.M.O.P.No.5 of 2012.

2.The petitioner / husband filed H.M.O.P.No.5 of 2012 against the respondent / wife to dissolve the marriage conducted between them on the ground that respondent is suffering from mental illness.

The respondent filed counter affidavit in the month of November 2012 and is contesting the H.M.O.P. The petitioner filed I.A.No.177 of 2014 under Section 12 of the Family Courts Act for a direction to the respondent to subject herself to psychological assessment by expert psychiatrist empanelled with the Court or any renowned psychiatrist of the choice of the Court, with specific attention to Schizophrenia, Post Traumatic Stress Disorder, Personality Avoidant disorder or any other tests and examinations as may be deemed fit to assess her mental and emotional state, intelligence quotient and submit a report. According to the petitioner, the respondent often consumes drugs and injection and she does not understand conversations and has to be repeated and explained in detail. Her behaviour is very strange. They consulted a doctor who opined that she could suffer from Schizophrenia. In view of the same, the petitioner has filed the present application.

3.The respondent filed counter affidavit in the said application and denied all the averments made by the petitioner. She contended that she is a B.E., (Instrumentation) and M.B.A graduate; started her career at Shristi Software, Bangalore in the year 2005, then she worked in ITC Limited and subsequently in TCS, Chennai in 2007. In 2009, she joined M/s.TEK systems, Bangalore and was deputed to

M/s.WIPRO Limited, Bangalore. During that period only, the petitioner and the respondent got engaged. After marriage, she joined M/s.Syntel Limited, Chennai. She has got two wheeler driving licence and she goes to the office by two wheeler. She could manage herself and maintain the minor child. The petitioner and respondent had happy married life till she conceived. She herself consulted Dr.Nambi and he has not given any certificate that she is suffering from mental illness and prayed for dismissal of the application.

4.Before the learned Judge, both the petitioner and respondent did not let in any oral and documentary evidence.

5.The learned Judge, considering the averments in the affidavit, counter affidavit and the judgment of the Hon'ble Apex Court reported in **2013 (5) CTC 665 (Kollam Chandra Sekar Vs. Kollam Padma Latha)**, relied on by the learned counsel for the respondent, dismissed the application.

6.Against the said order dated 24.07.2014 passed in I.A.No.177 of 2014 in H.M.O.P.No.5 of 2012, the petitioner has filed the present Civil Revision Petition.

7.The learned counsel for the petitioner contended that the learned Judge has misinterpreted the judgment of the Hon'ble Apex Court. In the said judgment, the wife was subjected to medical examination and based on the medical report only the contention of the husband was rejected. The petitioner is not having any document to prove that respondent is suffering from mental illness and only when the respondent is medically examined, it will help the Court to decide the issue. The learned Judge has dismissed the application, accepting the contention of the counsel for respondent made in the counter affidavit. The learned Judge failed to see that respondent did not produce any document to substantiate her contention in the counter affidavit. The learned counsel appearing for the petitioner in support of her contention relied on the judgment reported in **AIR 2003 SC 3450 (Sharda Vs. Dharmpal)**.

8.Heard the learned counsel for the petitioner and perused the materials available on record. Though the respondent entered appearance through counsel, there is no representation for her.

9.The petitioner has filed the H.M.O.P for dissolution of the

marriage conducted between the petitioner and respondent. The petitioner is seeking divorce on the ground that respondent is suffering from mental illness. The petitioner has come out with the said H.M.O.P based on the certain allegations in the said petition. The petitioner has to prove his case that respondent is suffering from mental illness. The petitioner in the affidavit has stated that they have consulted a doctor with regard to the mental illness of the respondent and has stated that doctor informed that respondent is suffering from Schizophrenia. The petitioner has not produced any document to substantiate this contention. On the other hand, the respondent in the counter affidavit has stated that she consulted Dr.Nambi, who examined the respondent and did not give any opinion that respondent is suffering from any mental illness. Further the respondent has stated that she is earning Rs.5,00,000/- per year out of her work; is holding a driving licence; used to go to office by two wheeler; and managing her affairs by herself and maintaining the minor son. The petitioner has not denied these averments. When the petitioner has come out with a specific case that respondent is suffering from mental illness, it is for the petitioner to prove the same and he cannot seek medical examination of the respondent to substantiate his case. The learned Judge has considered all the materials on record and dismissed the

application by giving cogent and valid reason. There is no error or irregularity warranting interference with the order of the learned Judge dated 24.07.2014 made in I.A.No.177 of 2014 in H.M.O.P.No.5 of 2012.

10.In the result, this Civil Revision Petition is dismissed. No costs. The H.M.O.P is of the year 2012. The learned Subordinate Judge, Tambaram, is directed to dispose of the HMOP as expeditiously as possible and in any event not later than three months from the date of receipt of a copy of this order.

06.12.2017

Index: Yes/No

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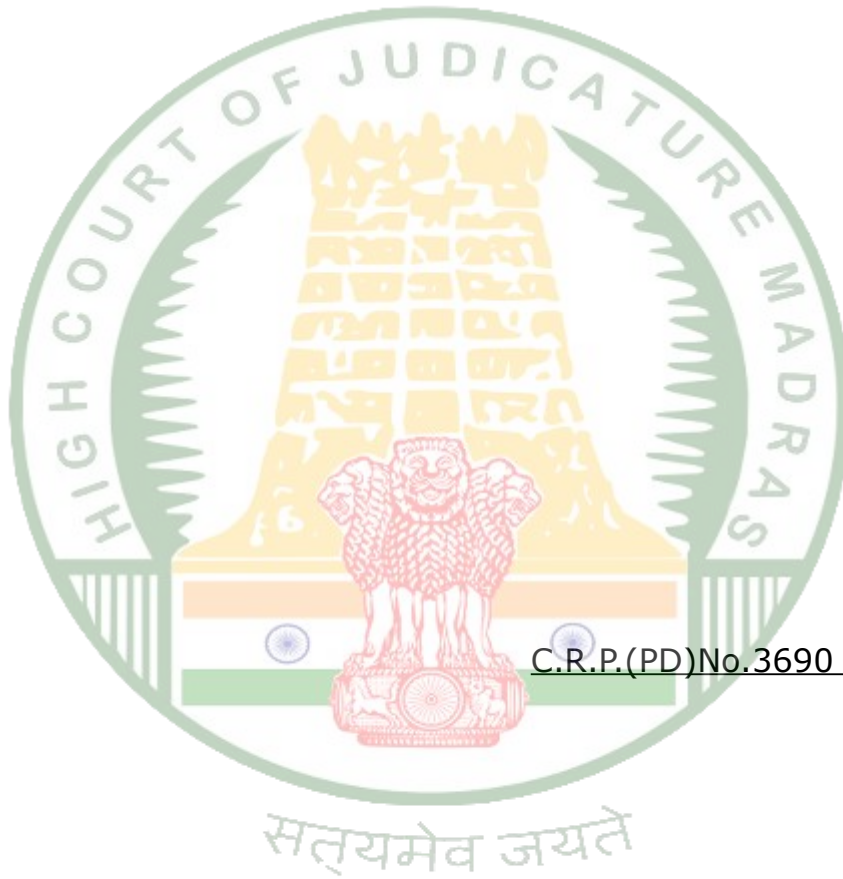
To

The Sub-Judge,
Tambaram

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V.M.VELUMANI,J.

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