



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2017

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Cr1.R.C(MD) .No.174 of of 2017

and

CRL.M.P(MD)No.1647 of 2017

P.R.Srinivasan

... Petitioner/Petitioner/Respondent

-Vs-

1.Sowmya Sri

2.Minor Suprajha

(Minor second respondent represented by her mother and natural guardian, the first respondent herein Sowmya Sri.)

....Respondents/Respondents/Petitioners

Prayer : Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, praying this Court to set aside the order passed in Cr.M.P.No.238 of 2016 in M.C.No.79 of 2014, dated 5.1.2017, on the file of Family Court, Madurai and permit the Petitioner to complete his evidence and marking of documents in accordance with law.

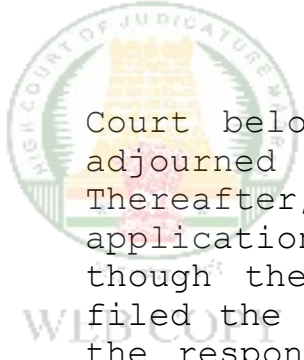
For Petitioner : Mr.S.A.Ajmal Khan

For Respondents : Mr.C.Jawahar Ravindran

O R D E R

Dismissing the application filed by the Petitioner under Section 10(3) of the Family Courts Act to re-open the evidence of P.W.1 and also to mark the salary certificate, the present revision is filed.

2.According to the Petitioner, the respondent herein, the wife of the Petitioner has filed a petition under Section 125 of Cr.P.C., seeking maintenance. During trial, after closing of the evidence of the respondent therein, the case was posted for Petitioner's side evidence on 22.6.2016. On that day, the Petitioner herein was examined as R.W.1 and the matter was posted to 22.7.2016 for marking some documents. But on that day, the Petitioner was absent for unavoidable circumstance. Hence the



Court below closed the Petitioner's side Chief-examination and adjourned the matter for cross examination of the Petitioner. Thereafter, the Petitioner filed the present application. That application was dismissed by the Court below stating that even though the Petitioner wants to mark some documents, he has not filed the copy of the documents along with the Petition enabling the respondent therein to know about the proposed documents. Now challenging the same, the present revision is filed.

3.I have heard the submissions of Mr.S.A.Ajmal Khan, learned counsel for the Petitioner and Mr.C.Jawahar Ravindran, learned counsel for the respondents and considered the materials available on record.

4.From the perusal of records, it is seen that after R.W.1 was examined on 22.6.2016 and the matter was adjourned for marking some documents, but on that day, he was absent. Hence his chief-examination was closed and the matter was posted for cross examination of the Petitioner. Since the documents sought to be marked along with the Petitioner is a salary certificate of the Petitioner, it is one of the very important document to prove his means to pay the maintenance in order to prove his defence, a opportunity necessarily be given to him. Even though the Petitioner did not file the copy of the documents along with the Petition, which is only an irregularity and for the said purpose, the Petition cannot be dismissed which amounts to denial of Petitioner's right to have a fair trial.

5.In the above circumstances, the Criminal Revision Case is allowed and the order passed in Cr.M.P.No.238 of 2016 in M.C.No.79 of 2014, dated 5.1.2017, on the file of Family Court, Madurai is set aside and the matter is remanded back to the trial Court for considering the matter afresh. The Court below is directed to recall the Petitioner for the purpose of marking documents and also the Petitioner is directed to file the documents which he wants to mark, after giving a copy of the same to the respondent herein. Thereafter, the trial Court is directed to proceed with the trial and after closing of evidence, the trial Court is directed to dispose of M.C.No.79 of 2014 within a period of two months thereafter. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

/True copy/

Sub Assistant Registrar



To

The Judge,
Family Court,
Madurai.

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+1 cc to Mr.S.A.Ajmal Khan , Advocate in SR.No. 66448

+1 cc to Mr.C.Jawahar Ravindran, Advocate in SR.No. 66520

vsn

AE/KP/SAR3/03.08.2017/3P/4C

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