

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P. No.3966 OF 2016

ORDER :

Heard counsel for the petitioner, Sri B.Prakasam, counsel for 1st respondent and Sri A.Midhun Kumar, Counsel for 2nd respondent.

2. This Revision is filed under Article 227 of the Constitution of India challenging the order dt.27.06.2016 in I.A.No.2234 of 2015 in DOP No.156 of 2012 of the Principal District Judge, West Godavari District at Eluru.

3. Petitioner had filed the said O.P. under Section 10(ix) of Indian Divorce Act, 1869 against the 1st respondent on several grounds.

4. After the respondent filed counter, petitioner adduced evidence as PW1 which was closed on 27.08.2012. Thereafter, the respondent also adduced evidence and the matter was posted for arguments on 30.01.2013.

5. In the meantime, an application to subject himself and his daughter to DNA test was filed by petitioner denying paternity of child.

6. The said application was allowed on 18.02.2013 and the same was confirmed in CRP.No.1724 of 2013.

7. A report of the Centre for DNA, Finger printing and Diagnostics was received in July, 2014 and thereafter the matter was posted again for arguments and written arguments were filed by the petitioner on 08.04.2015, by the 1st respondent on 17.04.2015 and by the 2nd respondent on 23.04.2015.

8. At that stage, the Court reserved for orders and posted it to 24.05.2015 and later to 06.07.2015 and 27.08.2015.

9. On 26.10.2015, petitioner filed I.A.No.2234 of 2015 seeking permission to adduce additional evidence on his side stating that the 1st respondent had filed an MC case as well as criminal case under Section 498A IPC and he could not properly adduce evidence.

10. The trial Court dismissed the said application on 27.06.2016.

11. Challenging the same, this Revision is filed.

12. Counsel for petitioner states that on 21.06.2016, the I Additional Judicial Magistrate of First Class acquitted the petitioner in C.C.No.2 of 2016 for offences punishable under Sections 498A IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961. He stated that other cases were still pending. He pleaded that one opportunity be given to the petitioner to place on record the judgment in CC.No.2 of 2016 which had been rendered on

21.07.2016, since it would have some bearing on the result of the O.P.

13. Counsel for the respondents vehemently opposed grant of any further opportunity to the petitioner to lead evidence contending that the petitioner had been deliberately dragging on the matter by filing the said application and causing mental harassment to them.

14. It is seen from the record that the petitioner had availed an opportunity to lead evidence by filing chief-examination affidavit on 02.08.2012 and also underwent cross-examination on 27.08.2012. But it is not in dispute that C.C.No.2 of 2016 filed against the petitioner under Section 498A IPC read with Sections 3 and 4 of Dowry Prohibition Act, 1989 came to be decided on 21.07.2016 by the I Additional Judicial Magistrate of First Class, Kovvur.

15. Therefore, only for the limited purpose of enabling the petitioner to mark the certified copy of the judgment in the said CC and for no other purpose, one opportunity is given to the petitioner to recall himself as witness.

16. Accordingly, this Civil Revision Petition is allowed to the above limited extent only. It is made clear that the petitioner should speak only about C.C.No.2 of 2016 and mark the judgment therein, on the date fixed by the Court below, and he is not permitted to adduce any other evidence. The respondents can

cross-examine the petitioner only to that limited extent on that date. Thereafter, the court below shall post the matter on another date for hearing arguments. The parties have option to file their written arguments or address oral arguments on that date. The Court shall then proceed to pronounce the orders without any further delay in the matter. There shall be no order as to costs.

17. Consequently, the vacate stay application CRP.MP.No.7693 of 2016 is dismissed.

03rd March, 2017
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M.S. RAMACHANDRA RAO, J

