

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

Crl.R.C.No.1310 of 2018

and

Crl.M.P.No.15471 of 2018

S.Karthikeyan

...Petitioner

Vs.

1.Narmadha Bobby

2.Master K.Shailendar

Minor represented by his mother

...Respondents

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against order dated 12.09.2018 made in M.P.No.820 of 2018 in M.C.No.244 of 2010 on the file of the V Additional Family Court, Chennai.

For Petitioner : Mr.K.Sudhakar

ORDER

This criminal revision case has been filed against the dismissal of the petition filed under Order XVI Rule 6 of C.P.C, seeking to issue subpoena to the Joint Director of Agriculture, Mannarpuram, Trichy, directing him to furnish the salary details of the first respondent/wife. The facts which lead to file this revision are briefly stated hereunder:

2. The petitioner has filed H.M.O.P.No.102 of 2010 before the Kumbakonam Principal Subordinate Court, for divorce, which H.M.O.P was transferred to the V Additional Family Court, Chennai, and renumbered as H.M.O.P.379 of 2017. The first respondent is wife of the petitioner and she had filed M.C.No.244 of 2010 for claiming maintenance. An interlocutory application in I.A.No.8 of 2012 was also filed for maintenance, which was allowed by the Kumbakonam Principal Subordinate Court, directing the petitioner to pay a sum of Rs.10,000/- p.m. According to the petitioner, the amount has been paid every month.

3 While so, the petitioner had come to know that the first respondent/wife was employed as Block Technological Manager at Agricultural Technology Management Agency (Central Government), Andhanallur Block, Trichirapalli District, and was earning a salary of Rs.25,000/- p.m. Since she was gainfully employed, she was not entitled to maintenance. In order to support his plea of gainful employment of the first respondent/wife, the subject petition was filed seeking to issue subpoena to the Joint Director, Agriculture, Trichy.

4 In the proceedings, on behalf of the first respondent, it was admitted that she was employed as part time employee and was paid a salary of Rs.20,000/- and Rs.5,000/- towards travelling allowance.

5 The fact that the first respondent earning Rs.25,000/- was admitted. In the said circumstances, no useful purpose would be served in summoning the Joint Director of Agricultural Department, since that would only result in delay in finalisation of original petition pending before the Family Court. Therefore, the learned Judge of the Family Court, after relying on the judgment of the Hon'ble Supreme Court of India, reported in (2015) 6 SCC 353, dismissed the petition filed by the petitioner herein vide order dated 12.09.2018. The learned Family Court Judge has extracted the operative portion of the order of the Hon'ble Supreme Court of India, which is extracted hereunder:

"The Family Judge is expected to be sensitive to the issues, for he is dealing with extremely delicate and sensitive issues pertaining to the marriage and the issues ancillary thereto. A Family Court Judge should remember that the procrastination is the greatest assassin of the lis before it. Dilatory tactics by any of the parties has to be sternly dealt with, for the Family Court Judge has to be alive to the fact that the lis before him pertains to emotional fragmentation and delay can feed it to grow. It is hoped that the Family Court Judges shall remain alert to this and decide the matters as expeditiously as possible keeping in view the objects and reasons of the Family Court Act."

The said order is put to challenge in the present criminal revision.

6 From the facts and the materials as disclosed, it is very clear that the case of the petitioner was admitted in fact by the first respondent stating that she was employed and was earning Rs.25,000/- p.m.. That being the case, what useful

purpose would be served in summoning the Joint Director, Agriculture, in order to establish the factum of employment of the first respondent is anybody's guess. Obviously, the petitioner has filed the subject petition only to drag the proceedings and to prostrate the proceedings by the first respondent in receiving monthly maintenance. Therefore, the learned Family Court Judge has rightly dismissed the petition. The petition is devoid of merit and substance and this Court does not find any infirmity in the order.

7 Once the factum of employment is admitted and monthly earning has also been acknowledged, irrespective of type of employment, there is absolutely no need for summoning the Joint Director, Agriculture, at the instance of the petitioner herein. Therefore this Court is of the view that the order passed by the learned V Additional Family Court Judge in M.P.No.820 of 2008 in M.C.No.244 of 2010 does not call for any interference and the present criminal revision is bereft of any merit and substance and therefore the same is dismissed. Consequently connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

To
The V Additional Family Court,
Chennai.

+1cc To Mr.K.Sudhakar, Advocate SR.NO.79433.

सत्यमेव जयते

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and

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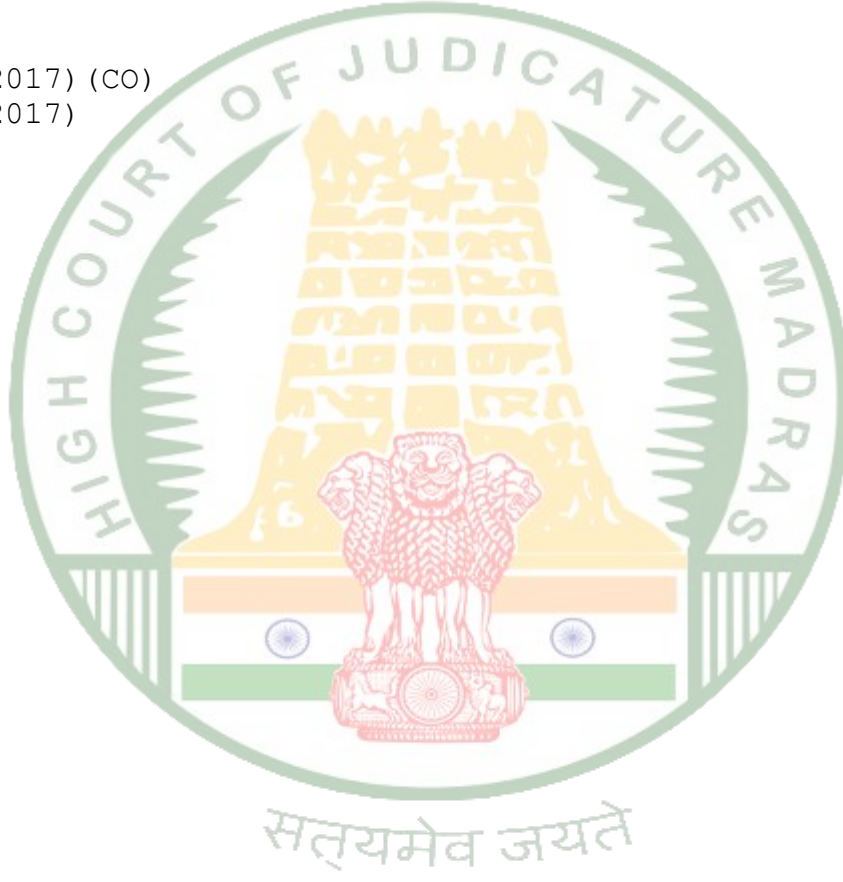
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