



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 11.10.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN  
C.R.P. (MD) No. 2082 of 2018 and  
C.M.P. (MD) No. 9201 of 2018

WEB COPY

B. Dhinesh Kumar

... Revision Petitioner/  
Respondent/Petitioner

Vs

V. Rubini

... Respondent/Petitioner/  
Respondent

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the proceedings of I.A.No.90 of 2018 in H.M.O.P.N.67 of 2016 pending before the learned Subordinate Judge, Madurai (Camp Court at Thirumangalam).

For Petitioner : Mr. R. Venkatesan,  
for M/s. Right Law Associates.

For Respondent : M/s. R. Gandhi

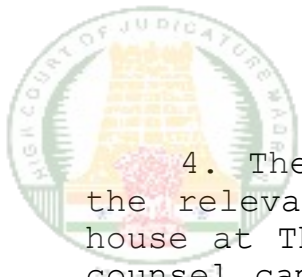
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#### O R D E R

H.M.O.P.No.67 of 2016 on the file of the Sub Court, Thirumangalam, was filed by the Revision petitioner herein Dinesh Kumar, for dissolving his marriage with the respondent Rubini on the ground of cruelty. The parties got married to each other on 22.02.2015 at Thirumangalam. The said H.M.O.P. was allowed on 26.10.2016. Raising certain very serious allegations, the respondent herein applied for setting aside the same. Since there was a delay of 317 days, I.A. No.90 of 2018 was filed for condoning the same. On receipt of summon in the Interlocutory application, the Revision petitioner filed this Civil Revision petition for striking off the said Interlocutory application. This Court ordered notice to the respondent.

2. Today when the matter was taken up for hearing, the respondent appeared in person along with her counsel.

3. The facts in this case make a disturbing reading. The Revision petitioner had filed the said H.M.O.P. for divorce. The learned trial Judge chose to allow the same on the strength of a testimony said to have been given by the respondent herein, as if she was submitting to the decree. A matrimonial proceeding seeking divorce will have to be adjudicated on merits or if the parties have consented to dissolve the same, they should file a petition under the relevant provision. The question of the respondent submitting to decree does not arise at all. In this case, the Revision petitioner filed H.M.O.P.No.67 of 2016 alleging cruelty by the respondent. The counter filed by the respondent herein which has been enclosed in the typed set of papers at page No.7 makes a very strange reading. The counter reads as if the respondent had admitted that even prior to the marriage, she had fallen in love with one person, by name, Abilaash and that she has no objection for allowing the H.M.O.P.



4. The respondent who is present before me states that during the relevant time, she was very much present in her in-law's house at Thirumangalam. She would make a pointed allegation that a counsel came to the house and obtained her signatures. She did not receive any summons in the H.M.O.P. The learned counsel for the respondent would make a statement that no summon was issued in the H.M.O.P. In any event, no person in her senses would file a counter of this nature. The manner in which the counter has been drafted and presented to the Court arouses the suspicion of this Court. The whole thing appears to be a stage-managed affair. A young woman has been taken for a ride.

5. This Court feels that the respondent has been tricked into cooperating for dissolving the marriage. The Court below seriously erred in allowing the H.M.O.P. merely on the strength of the counter said to have been filed by the respondent. The respondent states that she is aware of two languages, namely, English and Telugu. She does not know Tamil. She would claim that she was not allowed to read the counter. Her signatures were taken in some papers. This Court finds that the Court below had seriously erred in decreeing the H.M.O.P. in this manner. Even though this Civil Revision petition has been filed by the husband for striking off I.A.No.90 of 2018, taking note of the manner in which the H.M.O.P. has been dealt with, this Court has no hesitation to set aside the decree itself dated 26.10.2016 made in H.M.O.P.No.67 of 2016. The Court below shall issue a fresh hearing notice to the respondent herein and it is open to the respondent to file a fresh counter.

6. This Civil Revision petition stands disposed of, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/

Assistant Registrar(CS-III)

/True copy/

Sub Assistant Registrar(CS-I)

To

1. The Subordinate Judge,  
Madurai(Camp Court at Thirumangalam).
2. The Record Keeper, V.R.Section,  
Madurai Bench of Madras High Court, Madurai. (2 COPIES)

+1cc to Mr.R.GANDHI, Advocate, SR.No.90414

+1cc to M/S.RIGHT LAW ASSOCIATES, Advocate, SR.No.90259

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PMU

<https://heservices.ecourts.gov.in/heservices/>

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