

THE HON'BLE SRI JUSTICE SANJAY KUMAR
CIVIL REVISION PETITION NOS.2385 AND 2466 OF 2018

COMMON ORDER

FCOP No.2004 of 2016 on the file of the Family Court, Ranga Reddy District at L.B.Nagar, was filed by the petitioner-husband seeking dissolution of his marriage with the first respondent-wife on grounds of cruelty and adultery. The second respondent herein, shown as the second respondent in the O.P., was allegedly her paramour. While so, the petitioner-husband filed I.A.No.71 of 2018 in the O.P. under Order 16 Rule 6 CPC for production of the following documents from Hotel Radha Regent, 171, Jawaharlal Nehru Salai, Inner Ring Road, Arumbakkam, Chennai:

- '(i) Record/ Register signed by the Respondent No.1 & 2 pertaining to their boarding from 11-04-2015 to 12-04-2015 at Room No.306.
- (ii) Detailed Invoice bearing No.537, pertaining to boarding from 11-04-2015 to 12-04-2015 at Room No.306 by Respondent No.1 & 2.
- (iii) Identity cards furnished by the Respondent no.1 and 2 to the Hotel for booking.
- (iv) Photographs of R1 and R2 taken by the Hotel authority at the time of room check in/booking.
- (v) CC footage establishing the presence of the Respondent No.1 and 2 dated 11-04-2015 to 12-04-2015.'

He also filed I.A.No.72 of 2018 in the said O.P. under Order 16 Rule 6 CPC to call for the following records from Hotel Savera, 146, Dr.Radhakrishnan Road, Mylapore, Chennai:

- '(i) Record/ Register signed by the Respondent No.1 & 2 pertaining to their boarding from 27-02-2015 to 28-02-2015 at Room No.821.
- (ii) Detailed Bill bearing No.37619, Reservation No.57759, Register No.62670 pertaining to boarding from 27-02-2015 to 28-02-2015 at Room No.821 by Respondent No.1 & 2.
- (iii) Identity cards furnished by the Respondent no.1 and 2 to the Hotel for booking.
- (iv) Photographs of R1 and R2 taken by the Hotel authority at the time of room check in/booking.
- (v) CC footage establishing the presence of the Respondent No.1 and 2 dated 27-02-2015 to 28-02-2015.'

By common order dated 11.03.2018, the learned Judge, Family Court, Ranga Reddy District at L.B.Nagar, dismissed both the I.As. Aggrieved thereby, the petitioner-husband is before this Court by way of these revisions filed under Article 227 of the Constitution.

In the affidavits filed in support of these I.As., the petitioner-husband claimed that his wife and her paramour stayed at Hotel Savera, Chennai, from 27.02.2015 to 28.02.2015 and again at Hotel Radha Regent, Chennai, from 11.04.2015 to 12.04.2015. He claimed that with great difficulty he collected photocopies of documents from the said hotels in evidence thereof. However, as the first respondent-wife denied the same, he asserted that the subject documents which he wanted summoning of were crucial for adjudication of his charge of adultery by his wife.

The respondent-wife contested the I.As. stating that they were based on photocopies of hotel bills which had no legal sanctity. She alleged that he was trying to procure evidence through a fishing enquiry.

The learned Family Court Judge, Ranga Reddy District, opined that as the hotels in question were run by private managements, the petitioner-husband could obtain the hotel room invoices by making a request, but the Court could not undertake summoning of those documents as they were not forthcoming from a public authority. He further observed that as the petitioner-husband had already filed photocopies of the same, he could examine any in-charge persons of the said hotels to prove them. Opining so, he concluded that summoning of the documents in question could not be permitted and dismissed the I.As.

Personal service by registered post with acknowledgment due was permitted upon both the respondents. The envelope addressed by Sri Jalli Kanakaiah, learned counsel for the petitioner-husband, to the first respondent-wife was returned with the endorsement 'Unclaimed' while the second respondent, despite service of notice, evidenced by an acknowledgement card, did not choose to enter appearance before this Court.

Order 16 Rule 6 CPC does not require that summons for production of a document should only be issued to a public authority. The provision merely states that any person may be summoned to produce a document. Therefore, the reasoning of the learned Family Court Judge that his power under the aforesaid statutory provision is limited to only public authorities is not justified. Further, when the petitioner-husband specifically sought divorce on the ground of adultery, the subject documents may be crucial to establish the alleged adulterous relationship between the first respondent-wife and the second respondent. Though photocopies seem to have been procured by the petitioner-husband of some of the incriminating documents, the original record summoned from the hotels concerned would be important primary evidence. Therefore, the learned Family Court Judge ought not to have brushed aside the plea of the petitioner-husband for summoning of these documents despite his power to do so under Order 16 Rule 6 CPC.

The orders under revision are accordingly set aside and the civil revision petitions are allowed. The learned Judge, Family Court, Ranga Reddy District at L.B.Nagar, shall issue summons to the management of both the hotels concerned for production of the documents sought by the petitioner-husband and thereafter proceed in the matter in accordance with law.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

13th JULY, 2018
PGS

SANJAY KUMAR,J