

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.164 of 2017

ORDER:

The petitioner was the respondent in M.C.No.119 of 2014 on the file of the learned XIV Additional District Judge-cum-Additional Family Judge, Vijayawada, that was filed by respondent No.2 no other than his wife. Pending the main maintenance trial, respondent No.2 also filed CrI. M.P.No.886 of 2014 for grant of interim maintenance. In the course of hearing of the interim measure application, she filed CrI.M.P.No.582 of 2015 under Section 294 Cr.P.C. to receive certain documents, which are eight in number, listed in the petition in saying when she filed with the memo, she was directed to file with the petition; thereby filing which are extracted from the internet and face book and linked in the website and those are relevant to receive, which she downloaded to support her contest, that was opposed by the petitioner herein in his counter saying there is a bar for receiving the same.

2. So far as Section 65B of the Evidence Act, 1872 particularly clause (4) which prescribes certificate from the competent authority concerned, the very wording is non-obstante clause of notwithstanding anything contained in the Evidence Act to say this provision prevails over the general law, that is the purport of the expression of the Apex Court's three Judge Bench undisputedly in

Anvar P.V. v. P.K.Basheer¹. However, so far as the Family Courts Act and the proceedings therein are concerned, it clearly says irrespective of the documents otherwise inadmissible can be admitted. Once such is the case, the bar of Section 65B of the Evidence Act, 1872 also no way applicable to the proceedings before the Family Court by virtue of Section 14 of the Family Courts Act. Leave it apart when the party is not in custody of the original, the question of filing certificate under Section 65B (4) does not arise as per the subsequent two Judge Bench expression of the Apex Court in **Shafi Mohammed v. The State of Himachal Pradesh** [SLP (Crl.) 2302 of 2017 dated 30.01.2018]. Leave it apart, the certificate need not be filed with the documents and it can be filed even subsequently as per the settled law referring to **Anvar**'s case (supra 1) by the Division Bench judgment of the Delhi High Court and one judgment of the Rajasthan High Court and reiterated by this Court also many a time.

3. Having regard to the above, when the Court permitted to mark the documents in the impugned order subject to objection, there is nothing to interfere.

4. Accordingly, this Criminal petition is disposed of.

Dr. B. SIVA SANKARA RAO, J

08.11.2018
MVA

¹ (2014) 10 SCC 473