

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

CRP.No. 741 of 2019
and
CMP.No.4805 of 2019

R.Thangam

...Petitioner

vs.

C.Rajan

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 14.12.2018 made in I.A.No.233 of 2018 in HMOP.No.93 of 2013 on the file of the learned Sub Judge, Pollachi.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.Venkatasubban
for M/s. Sarvabhauman Associates

O R D E R

This Civil Revision Petition has been filed as against the order of the trial court in dismissing the application filed to summon the Inspector of All Women Police Station, Pollachi and one K.Raman Kutty, who was examined as evidence on the side of the respondent / husband.

2. The Original Petition has been filed by the respondent / husband seeking divorce mainly on the ground of cruelty on the part of the petitioner / wife. It appears that both side evidence was already completed. At this stage, an application was taken out by the petitioner / wife contending that in order to disprove the allegations of the respondent / husband, files relating to the enquiry on the complaint against the respondent / husband and a particular letter need to be produced. The trial court has rejected the application on the ground that the alleged letter dictated by the Inspector of All Women Police Station dated 28.03.2012 has already been marked by the respondent / husband as Ex.P11 and the application has

been filed by the petitioner / wife only to drag on the proceedings.

3. Heard the learned counsel appearing for the revision petitioner and respondent and also perused the materials available on records.

4. The main contention of the revision petitioner is that the respondent / husband has claimed divorce on the ground of cruelty. Therefore, the petitioner / wife in order to disprove the above allegations of the respondent / husband needs to examine the said witnesses.

5. It is to be noted that when a specific allegation was made, the onus always lies on the person who has made the allegation to prove the same. As long as the onus is not discharged, the other side need not disprove the allegation. It is for the respondent / husband to prove his allegation of alleged kidnap and cruelty by the Inspector of All Women Police Station, Pollachi. Therefore, the petitioner / wife need not disprove the allegation of the husband.

6. Admittedly, the alleged document which is said to be obtained under the coercion already on record as Ex.P11. That being the position, I am of the view that summoning of the witnesses is not at all necessary. Hence, the order of the trial court does not suffer from any illegality or irregularity and the same is hereby confirmed.

7. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

8. The learned Subordinate Judge, Pollachi is directed to dispose of the Original Petition within a period of one month from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge,
Pollachi.

+lcc to Mr.N.Manokaran, Advocate, SR.No.42137
+lcc to M/s.Sarvabhauman Associates, Advocate, SR.No.42370

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Kak (25/06/2019)



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