



WEB COPY

C.R.P.(NPD)(MD)No.1824 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated :05.03.2020

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (NPD) (MD)No.1824 of 2010

and

M.P. (MD)No.2 of 2010

Chella Nadar

.. Petitioner

Vs.

Lekshmi

.. Respondents

Prayer: This Civil revision petition is filed under Article 227 of the Constitution of India, to set aside the decreetal order dated 03.11.2004 in I.A.No.274 of 2004 in M.O.P.No.36 of 2001 on the file of the learned Subordinate Judge, Padmanabhapuram.

For Petitioner

: Mr.K.N.Thampi

For Respondent

: Mr.S.Sivathilagar

ORDER

Heard learned counsel appearing on either side.

2.This Civil Revision Petition has been filed against the order passed in I.A.No.274 of 2004 in M.O.P.No.36 of 2001 dated 03.11.2004, on the file of the learned Subordinate Judge, Padmanabhapuram.

3.The petitioner herein is the husband and the respondent herein is the wife. The husband has filed a petition in M.O.P.No.36 of 2001 before the Sub Court, Padmanabhapuram. In that petition, the wife has filed an application in I.A.No.274 of 2004 for returning of dowry articles and jewels and cash from the husband. The trial Court has allowed the petition. Against which, the husband preferred the revision petition.

4.The brief substance of the application in I.A.No.274 of 2004 is as follows:

The wife is the petitioner in I.A.No.274 of 2004. The husband deserted the wife and he has filed M.O.P.No.36 of 2001. The wife is having no means to maintain herself or to meet out the legal expenses. The husband is having the dowry amount cash of Rs.75,000/- (Rupees Seventy Five Thousand only), 30 sovereigns of gold jewels worth about Rs.1,50,000/- (Rupees One Lakhs and Fifty Thousand only) and other household articles and furniture worth about Rs.60,000/- (Rupees Sixty Thousand only). The husband demanded additional dowry and thrown her out of the house. The wife is residing with her aged



mother and prayed for return of the above said articles from the husband.

5.The brief substance of the counter in I.A.No.274 of 2004 is as follows:

It is false to state that the husband got Rs.75,000/- (Rupees Seventy Five Thousand only) as cash, 30 sovereigns of gold jewels and household articles worth about Rs.60,000/- (Rupees Sixty Thousand only) as dowry from the wife. The husband and his relatives never demanded any dowry and they never received any dowry cash or articles from the wife or her relatives. No such things are in the custody of the husband or his parents. The household articles, clothes, utensils and jewels were taken away by the wife in the absence of the husband with an intention to desert him. Only with a motive to extract money, the wife has made the above said allegations. Only after the cross examination of the husband in the main O.P., the wife has invented new stories and filed this petition. No dowry was ever given to the husband. No articles was entrusted with the husband. Since no belongings of the wife is with the respondent, there is no question of returning the same.

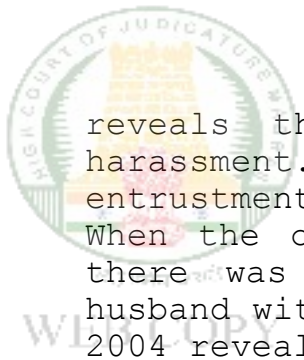
6.After considering both sides, the trial Court allowed the petition on 03.11.2004. Against which, the petitioner preferred this revision petition.

7.On the side of the revision petitioner, it is stated that the I.A. Petition was closed on 03.11.2004 on the ground that the main original petition was allowed but contrary to the docket order, the Court has committed a serious error in allowing the petition in the fair order. The order is a non speaking and one sentence order without considering the counter. The lower Court has not come to any conclusion whether any articles or money was entrusted with the husband. What was ordered to be given by the husband is exorbitant and unrealistic. The Court ought to have held that I.A.No.274 of 2004 was not maintainable.

8.On the side of the respondent, it is stated that the fair order passed by the learned Sub Judge was correct and the Docket order was wrongly mentioned.

9.A perusal of the records reveals that the main petition in M.O.P.No.36 of 2001 was allowed on 03.11.2004. A decree of divorce was granted on that date. It is seen that in I.A.No.274 of 2004, no separate findings was given by the Court. The order was an one line order. The only reason stated in that order was that the petition was allowed, since the main petition was allowed. In the order, there was no discussion whether the petition mentioned articles and cash were given to the husband or his relatives.

10.A perusal of the original petition in M.O.P.No.36 of 2001



reveals that the Court has decided that there was no dowry harassment. There was nothing in that order regarding any entrustment of articles or cash with the husband or his relatives. When the original petition was allowed in favour of the husband, there was no possibility to allow a I.A. Petition against the husband without ascertaining any reasons. The order in I.A.No.274 of 2004 reveals that there is an apparent error.

11.It is seen that on the same date, another petition in I.A.No.275 of 2004 was mentioned as allowed in the fair order. Against that order, the husband has filed a revision petition in C.R.P.(MD)No.466 of 2006 and that petition was allowed on 13.08.2007. In the docket order, it was stated that the petition was closed but in the fair order, it was stated that the petition was allowed. Both these petitions are disposed of on the same date. In both the docket orders in I.A.Nos.274 and 275 of 2004, it was mentioned as petition was closed, whereas in the fair order in both the petitions, it was mentioned as allowed. No reasons are given by the Judge for allowing the petition. There was no discussion regarding the entrustment of articles and cash with the husband and his relatives. There is an apparent error in the orders passed in both the I.A. Petitions. The connected revision petition in C.R.P. (MD)No.466 of 2006 was already allowed on 13.08.2007.

12.In the above circumstances, this Civil Revision Petition is allowed and the order passed in I.A.No.274 of 2004 in M.O.P.No.36 of 2001 dated 03.11.2004, on the file of the learned Subordinate Judge, Padmanabhapuram is hereby set aside. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1.The Sub Judge, Padmanabhapuram.

+1 CC to M/s.K.N.THAMBI, Advocate +1 CC to M/s.K.N.THAMBI, Advocate
(SR-10264[F] dated 05/03/2020)

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