



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order
27.08.2021

Date of Pronouncing Order
20.09.2021

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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

CrI.R.C.No.317 of 2018
and
CrI.M.P.No.3845 & 3846 of 2018

Sivakumar .. Petitioner/Appellant
Vs.
S. Radhika .. Respondent/Respondent

PRAYER : Petition filed under Section 397 and 401 of Criminal Procedure Code, to set aside the dismissal order passed in CrI.A.No.233 of 2016 dated 14.07.2017 confirming the order passed in M.P.No.1457 of 2016 in D.V.C.No.941 of 2016 on 24.05.2016 by the XIII Metropolitan Magistrate Judge at Allikulam, Egmore, Chennai.

For Petitioner : Mr. K. Nagarajan
For Respondent : No Appearance

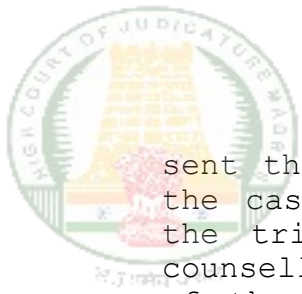
O R D E R

The matter is heard through "Video Conference".

2. The revision petitioner is the husband of the respondent herein.

3. The records reveals that the petitioner and the respondent got married on 31.01.2005 at Srinivasa Kalyana Mandabam, Vandhavasi and after marriage, both of them lived in the matrimonial home along with petitioner's parents and they had one male child by name Basupathan born on 10.07.2006. Subsequently, the respondent started to behave strangely and picked quarrel. Further, at the time of marriage, the parents of the respondent misrepresented that respondent had studied B.Com., and had been working in a private company. But, it has come to light that the respondent failed in 12th standard. The petitioner alone is taking care of his child and the respondent never shown any love and affection towards the child.

4. While so, the respondent in her complaint under Domestic Violence Act has stated that he had married another girl and also raised various allegations. She has lodged the complaint before the Protection Officer, Domestic Violence Wing, Singaravelar Maligai, Chennai, but no enquiry was conducted and counselling was done by the Protection Officer and straight away



sent the matter to the Court. Before going into the merits of the case, since the matter is relating to matrimonial dispute, the trial Court has ample power to send the above case for counselling before the qualified counsellors as per Section 14 of the Protection of Women from Domestic Violence Act at any stage of the case. Hence, Prayed to adjourn the above case till counselling report of the Family Court.

5. In the said application, the wife has not filed any counter. The learned Magistrate had dismissed the petition. The petitioner/husband preferred criminal appeal in CrI.A.No.223/2016 is also dismissed. Hence, the revision by the husband.

6. Heard, the learned counsel for the petitioner. There is no representation for the respondent.

7. As stated supra, the respondent is the wife of the revision petitioner and she had filed petition under Section 12 Protection of Domestic Violence Act, against the appellant. After enquiry, completed by the protection officer, forwarded the petition before the learned XIII Metropolitan Magistrate, Egmore, Chennai and the case was numbered as DVC.No.941/2016. Pending the same, the petitioner sought adjournment on the ground that counselling is going on the Family Court. The said petition was dismissed and it is under challenge.

8. Originally, the counselling was fixed on 13.06.2016, the learned counsel for the petitioner is unable to state as to the progress made in the Family Court in HMOP. I find that the counselling before the Family Court could not be a ground for adjourning the Domestic Violence application and hence, this petition is devoid of merits and the same is dismissed.

9. In this view of the matter, impugned order passed by both the Courts below is hereby confirmed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

AT

To

1.The XIII Metropolitan Magistrate Judge,
Allikulam.



2.The I Additional Family Court Judge,
The I Additional Family Court,
Chennai.

3.The Principal Sessions Judge,
Chennai.

4.The Section Officer,
Criminal Section,
High Court, Madras.

Crl.R.C.No.317 of 2018 and
Crl.M.P.No.3845 & 3846 of 2018

SRA (CO)
GN(11/10/2021)