

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.No.1697 of 2018 and
CMP.No.9336 of 2018

Sugaina

..Petitioner

Vs.

Abdul Jabbar

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the order and decretal order dated 04.04.2018 made in IA.No.139 of 2016 in OS.No.14 of 2016 on the file of the Family Court, Karaikal.

For Petitioner : Mr.G.Shabnam

For Respondent : Mr.R.Sreedhar

ORDER

This Civil Revision Petition is filed against the order and decretal order dated 04.04.2018 made in IA.No.139 of 2016 in OS.No.14 of 2016 on the file of the Family Court, Karaikal, thereby allowed the petition filed by the respondent for visitation rights.

2. The respondent filed suit for restitution of conjugal rights. While pending the suit, the respondent filed petition to visit his male child who is under care and custody of the petitioner herein. Resisting the same, the petitioner filed counter stating that the respondent is disentitled to file this application. Further when the minor male child is not a party to the matrimonial suit, no relief can be granted as against the minor male child. Already, the petitioner filed petition for rejection of plaint on the ground of no cause of action and it is pending for consideration. Due to harassment of the respondent, the petitioner already lodged complaint and the same was registered in crime No.242 of 2016 registered under Sections 294(b), 323, 427 and 506(ii) of IPC on the file of Inspector of Police, , Karaikal Town Police Station. In fact, the respondent was also arrested and remanded to judicial custody. Therefore, the welfare of minor is paramount consideration and the visitation right cannot be granted to the habitual offender, namely the respondent herein.

3. However, the court below without considering the same, allowed the petition and granted visitation right to the respondent and the petitioner was directed to produce the male child for the purpose of visitation atleast once in fortnight in the Office of

the Child Welfare Committee, Karaikal in the presence of any of the responsible staff.

4. At the time of filing the petition, the child was one year old and now he would have reached the age of six years. Therefore, it is not possible for the petitioner to produce the male child aged about six years for the purpose of visitation. That apart, due to pandemic covid-19 circumstances, it is not at all possible for the petitioner to bring the child to the Child Welfare Committee, Karaikal.

5. Considering the above, this civil revision petition is allowed and the order dated 04.04.2018 passed in IA.No.139 of 2016 in OS.No.14 of 2016 on the file of the Family Court, Karaikal is set aside. The court below is directed to dispose of the main suit in OS.No.14 of 2016 within a period of six months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. No order as to costs.

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Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

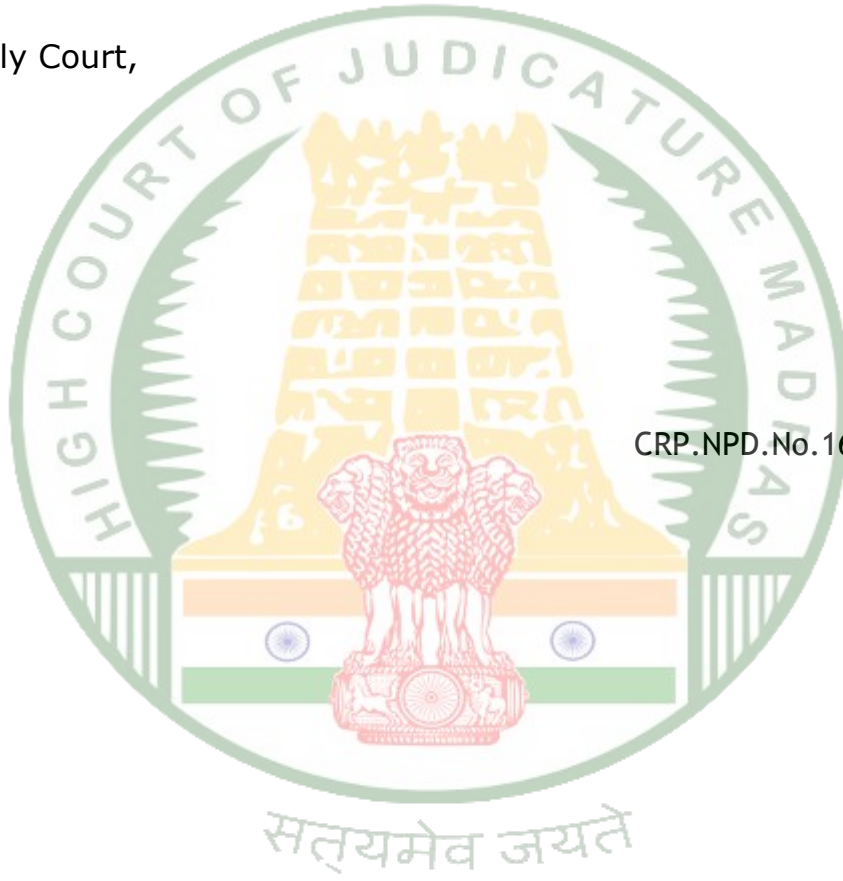
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G.K.ILANTHIRAIYAN,J.

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To

The Family Court,
Karaikal



CRP.NPD.No.1697 of 2018

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