IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on 06.08.2021	Orders pronounced on 19.08.2021

Coram

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(PD) Nos.1398 to 1401 of 2021
and
C.M.P.No.10821 of 2021

Deepa Rajendiran ... Petitioner in all CRPs.

Vs

N.Unnikrishnan ... Respondent in all CRPs.

The above four Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the order and decreetal order passed by the learned V Additional Family Court Judge, Chennai dated 10.02.2021 made in I.A.Nos.5, 6, 8 and 7 of 2021 respectively in HMOP No.1343 of 2014.

For Petitioner in all CRPs. .. Mr.K.Aravind Kumar for M/s.Norton and Grant

For Respondent/Caveator in all CRPs. .. M/s.Thenmozhi Shiva Perumal

COMMON ORDER

These Civil Revision Petitions were filed against the order and decreetal order passed by the learned V Additional Family Court Judge, Chennai dated 10.02.2021 made in I.A.Nos.5, 6, 8 and 7 of 2021 respectively in HMOP No.1343 of 2014.

I.A.No.5 of 2021

2. I.A.No.5 of 2021 was filed by the petitioner/wife to direct the Income Tax Commissioner at Chennai to produce the Sahaj/Saral forms relating to respondent's mother Mrs.K.P.Chandrika, having PAN No.ASBPN2261R (as culled out from sale deed dated 18.05.2017 bearing document No.5194/2017) and respondent's brother Mr.Vivekanandan Narayanaswamy, both residing at 14/7, Lakshmi Apartments, Athreyapuram Main Road, Choolaimedu, Chennai – 600094 for the period from 31.04.2001 upto date.

3. The reason for filing this petition is that the petitioner has produced Income Tax Returns Acknowledgments issued by Income Tax Department relating to respondent for assessment years 2012-13 to 2019-20 and when he was confronted with these documents during cross examination, respondent denied Document No.1 series filed by the

petitioner. Petitioner obtained information from Income Tax Department under Right to Information Act with regard to gross income of the respondent for the years 2017-18 to 2019-20. When the respondent was asked about the information provided by the Income Tax Department, he denied the information. When he was asked as to whether he is ready to file his Sahaj/Saral forms for the years 2017-18 to 2019-20, he gave answers which show that he would not file Saral forms. The respondent earned gross income of Rs.98,24,955/- in 2017-18 and Rs.1,03,57,100/- in 2018-19 and Rs.2,94,11,397/- in 2019-20. In order to prove his income, the Saral forms could be obtained from Income Tax Department, Hyderabad, Telangana. When he was asked question with regard to buying a flat in Jains Carlton Creek Apartments in the name of his mother, respondent answered that he obtained loans from his mother and brother. In order to prove this statement, respondent's mother's and his brother's saral forms are necessary. Therefore, respondent should be directed to produce Saral/Sahaj forms of his mother Mrs.K.P.Chandrika and his brother Mr.Vivekanandan Narayanaswamy. Therefore, this petition.

I.A.No.6 of 2021:

4. I.A.No.6 of 2021 was filed by the petitioner/wife to issue summons to the Managing Director of M/s.Cotiviti India Pvt Ltd., having address at 4th and 5th Floor, Western Pearl Sy. No.13, Kondapur, Hyderabad Rangareddi TG 500084, who had issued Ex.C1 to this Court to offer explanation regarding the salary, loan particulars the respondent obtained from the company and also the reimbursement given to the respondent by the company.

5. The respondent was directed to produce his salary certificate. Thereafter the matter was taken to Hon'ble High Court and the Hon'ble High Court directed the Managing Director of M/s.Cotiviti India Pvt Ltd., to submit pay slip along with perquisites through the ministerial official to this office. The respondent's employer produced respondent's salary slip through a ministerial staff and it was marked as Ex.C1. Employer has not included the pay slips for the month of April 2013, January 2014, January 2015, February 2016, February 2017 and February 2018. It is found from Ex.P9 – Axis Bank Statement, respondent received the following sums:

April 2013 - Rs.8,29,834/-

January 2014	-	Rs.6,65,724/
January 2015	-	Rs.8,15,400/-
February 2016	-	Rs.8,51,454/-
February 2017	-	Rs.11,09,553/-
February 2018	-	Rs.11,85,345/-

This is a wanton suppression of material particulars. Respondent claimed that he is earning net salary of Rs.1,21,000/- per month, but his gross salary is Rs.98,24,955/- for assessment years 2017-18, Rs.1,03,57,100/- for 2018-19, Rs.2,94,11,397/- for 2019-20. He states that his salary includes loan obtained from his company. Therefore, the Managing Director of M/s.Cotiviti India Pvt Ltd., should be summoned to offer explanation regarding the truth of the matter concerning respondent's salary and loans.

I.A.No.7 of 2021:

6. I.A.No.7 of 2021 was filed to direct the Axis Bank, Hyderabad, Telengana to produce the statement of accounts relating to the respondent's Account No.008010101382901 with Axis Bank for the period from 01.01.2012 to upto date.

7. Respondent has been earning fancy sums as salary and he has been lavishly spending money on liquor, personal grooming, spa services, male escort services and taking vacations in exotic locations with many women. Petitioner filed statement of accounts from Axis Bank for the period from 01.01.2012 to 07.10.2020 and it was marked as Ex.P10. Respondent denied the entire statement of accounts as a fake. With respect to certain entries relating to the payment to the petitioner, the respondent admitted them as true. Therefore, it is necessary that Axis Bank, Hyderabad, Telengana be directed to produce the statement of accounts relating to the respondent's Account No.008010101382901 for the period from 01.01.2012 to upto date.

I.A.No.8 of 2021:

8. I.A.No.8 of 2021 was filed to direct the Income Tax Department, Hyderabad, Telangana to furnish Sahaj/Saral forms for 2017-18, 2018-19 and 2019-20 of the respondent having PAN No.AADPU8396G.

9. The petitioner has produced Income Tax Returns Acknowledgments issued by Income Tax Department relating to

respondent for assessment years 2012-13 to 2019-20 and when he was confronted with these documents during cross examination, respondent denied Document No.1 series filed by the petitioner. Petitioner obtained information from Income Tax Department under Right to Information Act with regard to gross income of the respondent for the years 2017-18 to 2019-20. When the respondent was asked about the information provided by the Income Tax Department, he denied the information. When he was asked as to whether he is ready to file his Sahaj/Saral forms for the years 2017-18 to 2019-20, he gave answers which show that he would not file Saral forms. The respondent earned gross income of Rs.98,24,955/- in 2017-18 and Rs.1,03,57,100/- in 2018-19 and Rs.2,94,11,397/- in 2019-20. In order to prove his income, this petition is filed.

10. Respondent had filed a detailed counter in all the petitions, which are almost identical in nature except for the answers to the prayer in the petitions.

Respondent opposed these petitions claiming that these petitions are filed only to protract the proceedings and it is abuse of process of law. There was a direction to dispose the HMOP No.1343 of 2014 on day-to-day basis and complete the case within a period of six months. This order was passed on 18.06.2018. Again an order was passed on 20.01.2020 to dispose HMOP No.1343 of 2014 with M.C.No.348 of 2013 within a period of four months. In Crl.O.P.No.6604 of 2018, which is filed against the order passed in M.P.No.292 of 2016 in M.C.No.348 of 2013 directing the respondent's employer to produce salary bill, it was observed by this Hon'ble High Court that it is not necessary for the Managing Director of 'Space Global Services (India) Ltd.,' to come in person for handing over the salary particulars of Mr.Unnikrishnan. Respondent had submitted Income Tax Returns for the assessment years 2012-13 to 2016-17 on the basis of the order passed in M.P.No.100 of 2018. Respondent denied the allegations that the respondent spent money on liquor, personal grooming, spa services, male escort services and taking vacations in exotic locations. On the other hand, petitioner is known for her notorious act in Hyderabad and she was caught red-handed along with neighbour. The respondent saw the petitioner in a compromising position and therefore, he filed divorce petition on the ground of cruelty. Petitioner went for weight loss reduction and spa services, international travel with her boy friends. Respondent has already filed assets and liability along with IT papers. His company filed salary certificate. His employer has complied with the order of the Court and submitted salary slips for the period as directed by the Court. Petitioner filed statement of accounts from Axis Bank for the period from 01.01.2012 to 07.10.2020 and they were marked as Exs.P9 and P10. In the pay slips, respondent's designation is mentioned as Senior Vice President and Head BPO. His employer is being unnecessarily dragged into the matrimonial proceedings of the respondent. These petitions are filed only to harass the respondent and these petitions are devoid of merits. Therefore, these petitions are not legally maintainable and are liable to be dismissed.

11. These petitions were heard by learned V Additional Principal Judge / Additional Family Court Judge, Chennai and he dismissed all the petitions mainly on the ground that these petitions were filed only with a view to delay the proceedings. He has also observed that this case is pending from the year 2015. Interim maintenance of Rs.40,000/- was ordered and that was subsequently enhanced by Hon'ble High Court in CMA.Nos.1678 and 3243 of 2017 as Rs.45,000/- per month. The Hon'ble High Court in a case in CMA No.4815 of 2019 directed the Family Court to dispose the divorce petition within a period

of four months along with M.C.No.348 of 2013. Respondent has been regularly paying maintenance without any default. Respondent was cross examined in length. The object of Family Court is to try and decide the matrimonial dispute quickly. However, the petitioner is not cooperating for early disposal of the case. Wife had asked Rs.5Crores from her husband. Wife deposed that he claimed Rs.5Crores from her husband and it shows her intention to get huge amount from the husband by not allowing the case to be disposed. She is filing repeatedly various petitions. Affidavit of assets and liabilities was already filed by the respondent. The respondent had already filed the documents asked for by the wife before the Income Tax Department. However, these petitions are filed again for delaying the proceedings. Basing these reasons, learned Judge dismissed all the petitions. Against the dismissal of the said petitions, the present Civil Revision Petitions have been filed.

12. The point to be decided in these Civil Revision Petitions is that whether the petitioner is entitled to summon the witnesses and documents as claimed in the petitions.

13. Learned counsel for the petitioner submitted that respondent

filed this HMOP seeking divorce and petitioner filed maintenance petition seeking maintenance. Both these matters are being tried together. There are certain documents, like, saral forms, bank account statements, salary statements have been filed to prove the income, assets and liabilities of the respondent. However, when he was confronted during the course of cross-examination about the entries found in these documents, he denied or gave evasive answers. Therefore, saral/sahaj forms, bank account statements, salary statements are to be summoned to prove his income and also to prove that he purchased property in the name of his mother. He also denied the entries given in the salary certificate and gave contradictory evidence. It is necessary to find with regard to salary details as to whether it included travelling expenses and other expenses. Therefore, the examination of his employer is necessary. He drew the attention of this Court to certain portions of cross-examination of the respondent.

14. These submissions are strongly opposed by the learned counsel for the respondent on the ground that these petitions are filed only to protract the proceedings and cause mental agony to the respondent. This Court has directed the learned Family Court Judge to

dispose the case within the time limit fixed by this Hon'ble High Court. Due to deliberate filing of unnecessary petitions, the case could not be disposed within the time stipulated. The respondent was cross examined at length on various dates with long questionnaire. The respondent had already produced his salary certificate, his assets and liabilities statement. These petitions are clear abuse of process of law. Therefore learned counsel for the respondent prays for dismissal of these petitions.

15. In response, learned counsel for the petitioner submitted that the respondent filed HMOP for divorce. Petitioner is entitled for interim alimony and permanent alimony in the event of grant of divorce. Since the respondent, with the help of his employer, is trying to suppress his income, these petitions are necessary.

16. Considered rival submissions. Admittedly, certain documents have been filed to show the income of the respondent. It is relevant to consider the evidence, especially the cross-examination of the respondent to decide the issue involved in these petitions. The reading of his evidence shows that he admitted filing Income Tax Returns for the period from 2012-13 to 2016-17. He also said that he has not produced

Income Tax Returns for the assessment years 2017-18 to 2019-20. He said that during the assessment year 2016-17, his gross income was Rs.66,23,942/- and continued to say that his gross income includes travel expenses, telephone bills, client entertainment and general expenses during his travel. He disputed the Income Tax Returns shown to him for the period 2017-18 to 2019-20. With regard to Jain Carlton Creek Apartments, he said that partial amount was funded by him for this sale. He said that he had taken more than Rs.70,00,000/- as loan from his mother. When asked whether his mother was an Income Tax assessee, he replied that she does not file her Income Tax Returns. He said that 100% funding was made by his mother for the purchase of Jain Carlton Creek Apartments. He said that he took Rs.30,00,000/- as loan for registering the property. He said that he is not accepting the contents of Ex.P10, because there is no bank seal and it was taken illegally and he said that this document was fake. When he was asked as to whether as per Ex.C1, his income from salary is Rs.1,05,54,167/-, he replied that this amount is for entire year and it includes his travel expenses, client engagement, loan taken from company and when he was asked about the loan taken from company and that it was reflected in Ex.C1, he replied that it is not required to reflect the loan in the payslip. When he was shown the document obtained by his wife under Right to Information Act with regard to his net taxable income for the years 2017-18 at Rs.96,64,960/-, for 2018-19 at Rs.99,62,370/- and for 2019-20 at Rs.2,89,83,660/-, he denied those documents. Thus, it is clear from the answers given by the respondent, he disputed the Income Tax Returns filed by the petitioner to prove his income during 2017-18 to 2019-20. He also claimed that his salary includes travel expenses, client service expenses and other expenses, which is challenged by the petitioner. He denied the information received by the petitioner through Right to Information Act with regard to his income for the years 2017-18 to 2019-20.

17. As rightly pointed out by the learned counsel for the petitioner, in the event of divorce being granted to the respondent, the petitioner is entitled to get permanent alimony. To fix the quantum of permanent alimony, it is necessary to ascertain the income of the respondent. In the considered view of this Court, prayer of the petitioner to direct the Axis Bank, Hyderabad, Telengana to produce the statement of accounts relating to the respondent's Account No.008010101382901 with Axis Bank for the period from 01.01.2012 till date made in I.A.No.7

of 2021 and the prayer of the petitioner made in I.A.No.8 of 2021 to direct the Income Tax Commissioner, Hyderabad, Telangana to furnish sahaj/saral forms of the respondent having PAN No.AADPU8396G for 2017-18, 2018-19 and 2019-20 have to be allowed to ascertain the income of the respondent.

18. Similarly, with regard to prayer in I.A.No.6 of 2021, it is not necessary to summon the Managing Director to prove the contents of Ex.C1. It is enough if the Assistant Manager, (Finance and Accounts) of M/s.Cotiviti India Pvt Ltd., be summoned for clarifying respondent's salary details.

19. With regard to prayer in I.A.No.5 of 2021 to direct the Income Tax Commissioner at Chennai to produce the Sahaj/Saral forms relating to Mrs.K.P.Chandrika, having PAN No.ASBPN2261R, the mother of the respondent and Mr.Vivekanandan Narayanaswamy, brother of the respondent for the period from 31.04.2001 upto date, in the considered view of this Court, is not necessary for the reason that we are concerned only about the income of the respondent or not the income of his mother or brother.

20. In fine, CRP No.1398 of 2021 is dismissed and the order of trial Court in I.A.No.5 of 2021 is confirmed. Other Civil Revision Petitions, ie. CRP Nos.1399, 1400 and 1401 of 2021 are allowed and the orders of trial Court made in I.A.Nos.6, 7 and 8 of 2021 are set aside and allowed as indicated above. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

19.08.2021

mra

Index : Yes / No
Internet : Yes / No
Speaking order : Yes / No

To,
1. The V Additional Principal Judge
V Additional Family Court
Chennai.

G.CHANDRASEKHARAN, J.

mra

Common Order in

C.R.P.(PD) Nos.1398 to 1401 of 2021
and
C.M.P.No.10821 of 2021

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