



C.R.P. (PD) No.983 of 2021
and CMP No.7867 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Civil Revision Petition (NPD) No.983 of 2021
and CMP No.7867 of 2021

K.Vanitha

.. Petitioner

Vs.

Tamilselvan

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order passed in I.A.No.4 of 2021 in H.M.O.P. No.9 of 2020 dated 15.02.2021 on the file of the Family Court, Tiruvannamalai.

For Petitioner : Mr. S.Sairaman

For Respondent : Mr. M.Himavanth
for M/s.P.Vasanth



WEB COPY



C.R.P. (PD) No.983 of 2021
and CMP No.7867 of 2021

ORDER

Challenge in this Revision is to the order of the Family Court, Thiruvanamalai, made in IA No.4 of 2021 dated 15.02.2021, in and by which, the learned Family Judge has dismissed the application filed by the petitioner under Order XVI Rules 1 and 2 of the Code of Civil Procedure, seeking to examine three witnesses.

2. The original proceedings were initiated by the husband seeking divorce under Section 13(1)(ib) of the Hindu Marriage Act in the year 2013. It is now pending for more than eight years. The respondent wife filed a counter and after the evidence of the husband was closed, she has come up with this application seeking to examine three witnesses. The first witness is Inspector of Police in All Women Police Station, Thiruvanamalai, the second is one Minal, wife of Elumalai and the third witness is one Manoharan.

3. This application was opposed contending that the examination of



C.R.P. (PD) No.983 of 2021
and CMP No.7867 of 2021

WEB COPY

the Police Officer is wholly unnecessary, as the complaint given in FIR No.4 of 2013 was registered as a Calendar Case in CC No.141 of 2013 on the file of Judicial Magistrate, Thiruvannamalai and the same ended in acquittal of the respondent husband. It is also claimed that the second witness Minal has nothing to do with the proceedings and no reason has been assigned as to why she should be examined. As regards the third witness Manoharan, it is contended that already the petitioner has stated that she has taken away the articles belonging to her and the application has been filed only with the purpose of dragging on the proceedings. The learned Family Judge accepted the defence and dismissed the application.

4. I have heard Mr.S.Sairaman, learned counsel appearing for the petitioner and Mr.M.Himavanth, learned counsel appearing for M/s.P.Vasanth, for the respondent.

5. Mr.S.Sairaman, learned counsel appearing for the petitioner would vehemently contend that the learned Family Judge was not right in dismissing the application. He would submit that the Family Judge should



C.R.P. (PD) No.983 of 2021
and CMP No.7867 of 2021

WEB COPY

have given an opportunity to the petitioner to produce the evidence.

6. Contending contra, Mr.M.Himavanth, learned counsel appearing for the respondent would submit that the object of the respondent is only to delay the proceedings. He would also point out that this Court in Tr CMP No.564 of 2018 has held that the respondent is bent upon protracting the proceedings and this Court had directed the Sub Court to complete the proceedings in HMOP No.29 of 2013 within a period of six months from the date of receipt of a copy of the order. The said order was passed on 08.03.2019. Thereafter, after the constitution of the Family Court in Thiruvanamalai, the matter is transferred to Family Court in Thiruvanamalai. Therefore, according to the learned counsel, the order of the Trial Court does not need interference.

7. I have considered the rival submissions.

8. The application has been filed under Order 16 Rule 1 and 2 of the Code of Civil Procedure, seeking to file list of witnesses and issue of



C.R.P. (PD) No.983 of 2021
and CMP No.7867 of 2021

WEB COPY

summons to the witnesses. Though the prayer in the application is not very happily worded, the provision invoked shows that the petitioner seeks issuance of summons to the witnesses mentioned in the petition. When the petitioner seeks the assistance of the Court to examine certain persons, then the petitioner has to show as to how they are necessary witnesses.

9. As rightly observed by the Trial Court, the complaint in FIR No.4 of 2013 has been converted into a CC and the accused namely, the respondent and his parents have been acquitted after full trial. Therefore, any evidence on the said FIR would be redundant. As regards the second witness, namely Minal, there is nothing filed in support of the application as to the purpose for which she is to be examined. As regards Mr.Manoharan, it is stated that he has to be examined to show that the respondent is in possession of the articles belonging to the petitioner. As rightly observed by the learned Family Judge, the respondent in CC No.141 of 2013 had admitted that she has taken away all her belonging. Therefore, the purpose of examination of Manoharan is also unclear.



C.R.P. (PD) No.983 of 2021
and CMP No.7867 of 2021

WEB COPY

10. The learned Family Judge has rightly rejected the application on the ground that the application is only intended to delay the proceedings. I do not see any reason to interfere with the order of the learned Family Judge and the Civil Revision Petition is therefore fails and it is accordingly **dismissed**. Consequently, the connected miscellaneous petition is closed.

No costs.

24.11.2021

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

To

1. The Family Court,
Tiruvannamalai.
2. The Section Officer,
V.R.Section,
High Court of Madras.



WEB COPY



C.R.P. (PD) No.983 of 2021
and CMP No.7867 of 2021

R.SUBRAMANIAN, J.

jv

Civil Revision Petition (NPD) No.983 of 2021
and CMP No.7867 of 2021

24.11.2021