

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2021

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.R.P(PD).Nos.762 & 763 of 2017
and
C.M.P.No.3804 of 2017

K.Senthilkumar
S/o.Kuppusamy

... Petitioner in both CRP

Vs.

Sheeladevi
W/o.Senthi Kumar

... Respondent in both CRP

COMMON PRAYER: Petition filed under Article 227 of the Constitution of India, against the order dated 24.01.2017, made in I.A.Nos.1058 & 1059 2016 in H.M.O.P No.3 of 2015, on the file of the Family Court, Erode.

For Petitioner

: Mr.M.Vignesh

For Respondent

For M/s.C.S.Saravanan

: Mr.M.Karthik

for M/s.I.C.Vasudevan

COMMON ORDER

(These cases have been heard through video conference)

These Revisions have been filed seeking to set aside the order dated 24.01.2017, made in I.A.Nos.1058 & 1059 2016 in H.M.O.P No.3 of 2015, on the file of the Family Court, Erode.

2.The petitioner is the husband and the respondent is the wife. For the sake of convenience they will be referred to as husband and wife.

3.The husband had filed a petition in H.M.O.P.No.3 of 2015 u/s.13(1a) of Hindu Marriage Act, before the Family Court, Erode, seeking for divorce. When the matter was posted at the stage of arguments, the husband had filed a petition in I.A.No.1058 of 2016 under Order 18, Rule 17 and Section 151 of C.P.C, seeking to recall the respondent (R.W.1) / wife to further cross examine on his side and also filed a petition in I.A.No.1059 of 2016 under Section 15 of C.P.C. to reopen the case on his side for examination of additional witnesses and to further cross examine the respondent (R.W.1) / wife, with regard to character and activities and in the said petitions, he had stated that certain important questions with regard to

the conduct and character of the wife were left out to be asked in cross examination.

4.The Respondent / wife had filed counter in both petitions stating that she was already recalled and cross examined twice, once on 08.09.2016 and again on 24.11.2016 and that the purpose for recalling and reopening her witness to ask important questions about her conduct and character was only to humiliate her.

5.The trial Court finding that the wife has already been recalled twice viz. once on 08.09.2016 and another time on 24.11.2016 and thereafter finding that the case was referred to Mediation and that no settlement has been arrived at and also finding that the petitions for recalling and reopening have been filed only with an intention of delaying and protracting the case proceedings and also finding that the petitioner / husband had not stated any proper reasons to file such petitions, had dismissed the petitions filed by him, against which, the present revisions have been filed.

6.Mr.M.Vignesh, the learned counsel appearing for the petitioner would submit that the petitioner is the husband and that certain important questions with regard to the conduct and character of the wife had been left out while cross examining her and thereby finding that the recall and reopen was necessary, he had filed petitions under Order 18 Rule 17 C.P.C. to recall and reopen the witness, however, the trial Court without properly appreciating the need and necessity for recalling and reopening the evidence of witness had dismissed the petitions filed by the petitioner, against which, the present revisions have been filed.

7.Mr.M.Karthik, the learned counsel for the respondent would vehemently oppose stating that the petitions have been filed only with an intention to protract and delay the case before the Family Court. He would further submit that the evidence of the wife was given in chief, thereafter, the wife was called again on 08.09.2016 and once again on 24.11.2016 for cross examination and the cross examination was done extensively at length and thereafter, only when the case was posted for argument, the petitions to

recall and reopen the witness were filed by the petitioner. He would further submit that the reasons for recalling and reopening the witness / respondent / wife were not properly stated in the petitions. Further, the petitions were filed only with an intention of harassing and humiliating the respondent / wife. Finding that the petitions filed by the petitioner was vague and that it was only for the purpose of protracting the proceedings and to humiliate the respondent / wife, the trial Court had dismissed the petitions. He would further submit that the petition in H.M.O.P.No.3 of 2015 is pending from the year 2015 and the present revisions are pending from the year 2017. He would further submit that the trial Court finding that the grounds raised by the husband were not satisfactory to recall and reopen the witness of the wife, had rightly dismissed the petitions and the same does not warrant any interference.

8.Heard the counsels. Perused the materials on record.

9.Perusal of the impugned order shows that the learned trial Judge

finding that the respondent / wife had earlier been recalled twice on 08.09.2016 and 24.11.2016 and also finding that she had been exclusively cross examined and that the petitions had been filed at the stage of arguments had dismissed the petitions. The trial Court has also rendered a finding that no proper reasons had been adduced by the husband for recalling and reopening the evidence of the wife.

10.This Court is also of the opinion that the reason adduced by the petitioner / husband that certain questions have to be asked with regard to the conduct and character is also with the purpose of humiliating and harassing the respondent / wife. This Court does not find any infirmity or illegality in the orders passed by the learned trial Judge.

11.In view of the same, this Civil Revision Petition stands dismissed. Taking into consideration that the H.M.O.P is of the year 2015, a direction is issued to the learned Family Court Judge, Erode to complete the trial in

H.M.O.P.No.3 of 2015 as expeditiously as possible preferably within a

period of six weeks from the date of receipt of a copy of this order.
Consequently, the connected miscellaneous petition is also dismissed. No costs.

19.04.2021

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Index : yes / no

Internet : yes / no

Speaking / Non Speaking order

To.

The Family Court
Erode



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A.D.JAGADISH CHANDIRA, J.



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