



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on :22.03.2021

Pronounced on : 30.04.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP (PD) (MD) No.762 of 2020

and

CMP (MD) .No.5104 of 2020

Indhumathi ...Revision petitioner/Respondent

Vs

Prithviraj ... Respondent/ Petitioner

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India to strike off the petition in H.M.O.P.No.99 of 2020 on the file of the Principal Sub-Court, Kumbakonam.

For Petitioner : Mr.G.Prabhurajadurai

For Respondent : Mr.R.Prakash

ORDER

These Civil Revision Petition has been filed under Article 227 of Constitution of India to strike off the petition in H.M.O.P.No.99 of 2020 on the file of the Principal Sub-Court, Kumbakonam.

2. The short facts, in a nutshell, are as follows:-

2.1. The petitioner would aver among other things that the respondent herein was a schoolmate and on the strength of that relationship, it is alleged that he was continuously stalking her over phone and in person. Having fed up with the continuous harassment, she informed about the harassment to her parents. Irked over it, the respondent filed a police complaint and thereafter, he filed HMOP No.99 of 2020 for restitution of conjugal rights. She was summoned to appear before the Court on 09.10.2020 to answer the plaint. It is also alleged by the petitioner that the respondent had created two fake documents to show that the marriage had taken place between them. viz., a purported wedding invitation and an alleged receipt issued by temple. Both are proved to be not valid in the



eye of law. Stating all these facts, the petitioner is before this Court for the relief stated supra.

3. The respondent would contend through his counter affidavit that this Court cannot be used as a trial Court and no evidence could be marked nor there is any provision for putting any person or witness in the witness box and take chief and cross examine to bring out the truth. Further, the respondent denies all the allegations levelled against him and there has been no occasion to defame anybody including this petitioner and pray for dismissal of this Civil Revision petition.

4. The learned counsel for the petitioner would submit that the petitioner wants to pursue her carrier peacefully and the respondent herein wants to harass her either one way or the other and thereby stall the carrier of the petitioner by creating fake marriage documents. Though the petitioner claims in paragraph No.4 of the counter affidavit that the petitioner and the respondent has been known to each other for more than one decade not even an iota of evidence is marked even before the Court below as well as before this Court to prove that the alleged marriage had taken place as claimed by the respondent and therefore, he prays for allowing this Civil Revision Petition.

4.1. In support of his contentions, he relied on the following judgments of this court:-

(a) In the case of **A.Sreedevi Vs Vicharapu Ramakrishna Gowd** reported in **2006-1-L.W.398**.

(b) In the case of **S.Balakrishnan Pandiyan Vs. R.Ram Prasath** reported in **2014-5-L.W.207**.

4.2. In both the judgments, validity of the marriage is discussed as per the Hindu Marriage Act and more particularly, in the case of **S.Balakrishnan Pandiyan (cited supra)**, the Division Bench of this Court, has elaborately discussed about Section 7-A of the solemnization of marriage and disapproved the practise of the marriage held in the present case on hand.

5. The learned counsel for the respondent would submit that the petitioner's father is an influential person and by drawing the attention of this Court in paragraph No.8 of the counter affidavit, he would submit that though the petitioner lodges complaints in connection with marriage dispute in RUR201106556 dated 26.09.2020 and CSR receipt No.269 of 2020 dated 24.07.2020, no action has been taken by the respondent police. The respondent wants that the trial to be conducted so that the truth will come out and to sum up, he prays for dismissing of this petition.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

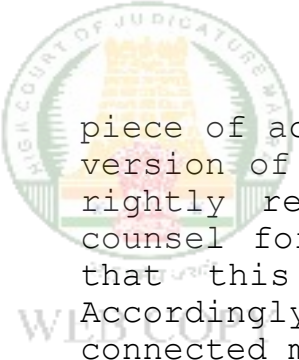


7. It is the claim of the petitioner that the marriage between the petitioner and the respondent was conducted in the presence of respective friends by changing garlands and rings besides tying thali. However, not a single photograph of the alleged marriage is produced and even during the course of the enquiry the respondent could not produce any such photo of the alleged marriage. In the modern world, it is unbelievable that for a memorable event, it is not even captured in any of the mobile phones. Further, the respondent produces a receipt issued by amman temple situate near Karur Bus stand (hereinafter referred to as 'temple') to show that the marriage had taken place between them. However the said temple by letter dated 19.09.2020 informed that no such receipt has been issued by the said temple. Both the evidences would show that the intention of the respondent is nothing but to tarnish the image of the petitioner either one way or the other.

7.1. The contention of the respondent that the truth will come out only in the trial cannot be countenanced in the eye of law for the reason that without any iota of document produced by the petitioner, the Court cannot compel the petitioner to face the trial for an empty formality. This Court could infer that filing a civil case by the respondent is nothing but to keep the matter pending for years and inflict maximum insult, humiliation and harassment to the petitioner. This Court will never encourage such litigation by wasting the time of the litigant and this Court. This Court is conscious of the fact that frivolous or vexatious litigations are not allowed to consume the time of the Court. In a case of this nature, a normal women would get tired at the end of Civil trial and that she would not have the courage to initiate a criminal proceedings subsequently.

7.2. Considering the submission of the learned counsel appearing for the parties and the materials placed before this Court, this Court can only come to a conclusion that there is no material placed before this Court even to assume that a marriage had taken place as alleged by the respondent. Admittedly, the marriage is also not registered as per the Tamil Nadu Registration of Marriage Act, 2009 and the provisions contained therein. Time and again, this Court has held that the marriage conducted by Advocates in secrecy at their office or in a temple or with friends is not amounting to solemnization of marriage as per Section 7A of Hindu Marriage Act. If such marriage had taken place, it can be termed as invalid in the eye of law and it has no sanctity whatsoever. When it is demonstrated before this Court by factually and also legally, this Court by invoking the power under Article 227 of the Constitution of India, has no other option except to strike it off the plaint.

7.3. Taking note of the entire averments, pleadings and also facts and circumstances of the case coupled with the legal position and also taking into consideration that not even a single



piece of acceptable evidence placed before this Court to support the version of the respondent that he has married the petitioner and as rightly relied on by the judgments cited supra by the learned counsel for the petitioner, this Court is of the considered view that this Civil Revision Petition is liable to be allowed. Accordingly, this Civil Revision Petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Bala

To

The Principal Subordinate Judge, Kumbakonam.

Copy to:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. 2 Copies

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-18172[F] dated 30/04/2021)

order made in
CRP(PD) (MD) No.762 of 2020

30.04.2021

CN(18.05.2021) 4P 5C