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C.R.P(PD)No.420 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2022

CORAM:

Mr. JUSTICE N.SESHASAYEE

C.R.P.(PD)No.420 of 2022

and

C.M.P.No.2157 of 2022

Pradeep Kumar

...Petitioner

Vs.

S.Suganya

....Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India to direct the Family Court, Salem to permit the petitioner to cross examine the respondent and her witnesses with regard to dissolution of respondent's first marriage with one Karthikeyan and also marking of the documents in FCOP.No.42 of 2017 on the file of Family Court, Salem by allowing this Civil Revision Petition.

For Petitioner : Mr.S.Sivakumar

For Respondent : Mr.R.Marudhachalamurthy

ORDER

The present revision is filed seeking a direction to the Family Court to let the revision petitioner/ husband of the respondent to cross examine the latter on certain aspects of her earlier marriage with a third person.



2. The respondent admittedly was married once, which was dissolved and the revision petitioner chose to marry her thereafter. However, even the second marriage of the respondent with the revision petitioner has run into a rough weather and she now finds herself engaged in another matrimonial cause in FCOP.No.42 of 2017, which the revision petitioner has laid for dissolution of his marriage with the respondent, on the ground of cruelty.

3. The trial of the case is now on and the petitioner side evidence is closed. The respondent is now being cross examined, during which the petitioner wanted to rake up certain issues pertaining to the respondent's first marriage. He indeed has attempted to confront the respondent with a petition filed by her first husband for dissolution of marriage and things such as that. They were disallowed by the Family Court and hence the revision has been filed.

4. Heard both sides.

5.1 It is not in dispute that the respondent was a divorcee and the dissolution of her first marriage had occasioned by a decree of the Court. The revision



petitioner's present contention for seeking dissolution of his marriage with the respondent is on the grounds of cruelty, and it is independent of the cause of action in the earlier matrimonial dispute in which the respondent herein found herself exactly in the same spot where she now finds herself now. When a certain fact is not relevant either in relation to the cause of action in the present litigation, or relevant to such relevant facts, then the Court has every authority to decline the admission of such evidence. This apart, Court also has a duty to protect the witness from embarrassing questions. While defending her action in dissolution of marriage, the facts pleaded by the respondent's first husband in his application for dissolution of that marriage is not relevant, and it is very likely to embarrass the witness.

5.2. Secondly, somewhere in the course of hearing, the learned counsel for the revision petitioner indicated that the nature of allegations levelled by the respondent's first husband in his petition has some parallel to the allegations made by the present petitioner in the present FCOP. At the end of the day, those facts alleged by the first husband of the respondent were never proved before the Court and hence they can hardly be termed as relevant, since the first marriage of the revision petitioner ultimately was dissolved only mutually.



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6. No similar facts can be admitted in the evidence to prove the fact in issue in this case viz., alleged cruelty of the respondent. Now the respondent's character can be projected to be bad for it is prohibited under Section 52 of the Indian Evidence Act. From which ever angle this matter is viewed, this Court hardly finds reason to interfere with the stand taken by the learned Family Court.

7. To conclude, this Court does not find any merits in this revision and the same is **dismissed**. Having said that, if at all the petitioner is inclined to introduce the petition filed by the first husband of the respondent, he may recall himself to produce the same, but, its admissibility and relevancy may have to be viewed crucially by the learned Family Court before letting them in evidence. No costs. Consequently, the connected miscellaneous petition is closed.

12.04.2022

dsa

Index : Yes/ No

Speaking order/ Non-speaking order

Note:- Issue order copy by **18.04.2022.**



To

The Family Court Judge, Salem.



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N.SESHASAYEE, J.,

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