



C.R.P(PD).Nos.1683, 1688, 1842, 2091 and 2113 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P(PD).Nos.1683, 1688, 1842, 2091 and 2113 of 2022
and C.M.P.Nos.8414, 8368,9435, 10769 and 10908 of 2022

M.Sailesh Kumar

... Petitioner in all C.R.P.s'

Vs

Suchitra

... Respondent in all C.R.P.s'

Prayer in C.R.P(PD).No.1683 of 2022:- Petition is filed under Article 227 of the Constitution of India, pleaded to allow the above Civil Revision Petition and set aside the Fair and Decreetal order passed on 07.04.2022 by the learned VII Additional Principal Family Court Judge at Chennai in I.A.No.1 of 2022 in O.P.No.4726 of 2015.

Prayer in C.R.P(PD).No.1842 of 2022:- Petition is filed under Article 227 of the Constitution of India, pleaded to allow the above Civil Revision Petition and set aside the Fair and Decreetal order passed on 07.04.2022 by the learned VII Additional Principal Family Court Judge at Chennai in I.A.No.2 of 2022 in O.P.No.4726 of 2015.



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Prayer in C.R.P(PD).No.2113 of 2022:- Petition is filed under Article 227 of the Constitution of India, pleaded to set aside the Fair and Decreetal order passed on 07.04.2022 by the learned VII Additional Principal Family Court Judge at Chennai in I.A.No.3 of 2022 in O.P.No.4726 of 2015.

Prayer in C.R.P(PD).No.1688 of 2022:- Petition is filed under Article 227 of the Constitution of India, pleaded to allow the above Civil Revision Petition and set aside the Dismissal order passed on 12.04.2022 by the learned VII Additional Principal Family Court Judge at Chennai in I.A.No.1 of 2022 in O.P.No.4726 of 2015.

Prayer in C.R.P(PD).No.2091 of 2022:- Petitions are filed under Article 227 of the Constitution of India, pleaded to allow the above Civil Revision Petitions and set aside the Dismissal order passed on 12.04.2022 by the learned VII Additional Principal Family Court Judge at Chennai in I.A.No.3 of 2022 in O.P.No.4726 of 2015.

In all C.R.P.s'

For Petitioner : Mr.M.Praveen Kumar

COMMON ORDER

These Civil Revision Petitions have been preferred challenging the order dated 07.04.2022 made in I.A.Nos.1 of 2022, 2 of 2022 and 3 of 2022 and the order dated 12.04.2022 made in I.A.Nos.1 of 2022 and 3 of 2022 in O.P.No.4726 of 2015 passed by the learned VII Additional Principal Family Judge, Chennai.



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2. The revision petitioner is the husband, who has filed the Original Petition for dissolution of marriage in O.P.No.4726 of 2015. After the petitioner side evidence was over, the revision petitioner filed petitions to reopen and recall PW.1 and issue summons to one Mr.T.C.Thiagarajan. After hearing the above petitions in I.A.Nos.1 and 3 of 2022, they were allowed on condition that the petitioner should cross examine PW.1 only on the limited aspect of marking the photographs and she shall not be subjected to a lengthy cross examination; the petition in I.A.No.2 of 2022 which was filed to summon Mr.T.C.Thiagarajan was dismissed. The order dated 07.04.2022 passed in I.A.Nos.1 and 3 of 2022 is a conditional order. Since the condition is not complied, consequential orders were passed, by which I.A.Nos.1 and 3 of 2022 were dismissed for non compliance of the condition. Aggrieved over the above said orders, these Civil Revision Petitions have been filed by the revision petitioner.

3. Learned counsel for the revision petitioner submitted that the original petition was filed by the revision petitioner against the respondent for dissolution of marriage; since, the petitioner has alleged that the respondent had illegal intimacy with a person, who used to go to her father's business premises, the



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petition was filed to recall the respondent's father Mr.T.C.Thiagarajan to examine as a witness and to issue summons to him; despite there is a necessity to examine him, the learned VII Additional Principal Family Judge, Chennai had dismissed the petition; even, the other petitions filed in I.A.Nos.1 of 2022 and 3 of 2022 were allowed for the purpose of reopening the enquiry, and recall PW.1, the learned VII Additional Principal Family Judge, Chennai passed stringent conditions that PW.1 should be questioned only on a limited aspect; that would defeat the ends of justice; while allowing the petitions in I.A.Nos.1 and 3 of 2022, it is stated that the case will be posted to 13.04.2022; on believing that the learned counsel for the petitioner thought of making his presence on 13.04.2022; but, all of a sudden on 12.04.2022, the case was called and the petitions in I.A.Nos.1 of 2022 and 3 of 2022 were dismissed for non compliance; had the petitioner known that the case is posted on 12.04.2022, he would have made his presence on 12.04.2022; despite it is submitted to the learned VII Additional Principal Family Judge, Chennai that there is some miscommunication in knowing the hearing date, the learned VII Additional Principal Family Judge, Chennai dis-allowed the request and dismissed the petition.



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4. On perusal of the records, it is seen that the petitions filed by the revision petitioner in I.A.Nos.1 and 3 of 2022 were allowed for the purpose of reopening and recalling PW.1. However, in the order itself, the hearing date is mentioned as 12.04.2022. But, there is some confusion in the adjudication and in which both the dates i.e, 12.04.2022 and 13.04.2022 were mentioned. On 12.04.2022, the learned VII Additional Principal Family Judge, Chennai has passed another order by stating that the mistake crept due to the wrong entry of the date in the online, subsequently, the mistake was rectified and the parties were informed about the right dates. It is further mentioned that on 12.04.2022, PW.1 was present, but the learned counsel for the revision petitioner did not present for doing the cross examination. Having found the conduct of the petitioner in delaying the proceedings, the learned trial Judge had dismissed the petitions in I.A.Nos.1 of 2022 and 3 of 2022 for not complying the conditions.

5. It is seen from the Diary proceedings of the trial Court, on 07.04.2022, two dates were mentioned. That would have genuinely caused some confusion in the minds of the parties. However, PW.1 was present on 12.04.2022 by knowing the hearing dates correctly. But the revision petitioner/husband's counsel seems to



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have mistaken the date by seeing the online status and had omitted to make his appearance. When there is some miscommunication, these things might happen sometimes. In such circumstances, the learned VII Additional Principal Family Judge, Chennai could have been bit lenient and given a next date.

6. It is seen from the order of the learned VII Additional Principal Family Judge, Chennai that PW.1 was subjected to a lengthy cross examination and she was even made to face some embarrassing questions. Since, the purpose of recalling PW.1 was to confront her about the photographs marked in the case, the learned trial Judge seems to have given a limited permission to cross examine PW.1 by confining it to the reasons for which she was recalled. Since, the revision petitioner had filed a petition only for the limited purpose in connection with the photographs marked, there will not be any difficulty in cross examining PW.1 on that aspect alone and that will not cause any prejudice to the revision petitioner. Even that is not possible, unless the dismissal orders made in I.A.Nos.1 of 2022 and 3 of 2022 are set aside. Hence, I feel that the orders of the learned VII Additional Principal Family Judge, Chennai dated 12.04.2022 should be set aside and the order dated 07.04.2022 should be modified to save the interest of both



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parties.

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7. With regard to issuing summons to one Mr.T.C.Thiagarajan for examining him as a witness, the learned trial Judge has observed that the object of summoning the said witness is just to add up pressure. The witness viz., Mr.T.C.Thiagarajan is the father of the respondent/wife. In this context, it is relevant to mention that the learned trial Judge has already observed in his order that while cross examining PW.1, some embarrassing questions were asked to her.

8. Even if it is accepted for the sake of arguments that a named third person used to visit the business premises of the father of the respondent, that will not help the petitioner to prove the allegations of adultery. To examine the father of the respondent for proving the alleged adulterous attitude of his daughter is just horrible and painful. No useful purpose will be served at the end of the examination, except harming the emotions of the witness. A person's opinion about the conduct and character of another person cannot prove the specific allegation of adultery. Hence, the learned VII Additional Principal Family Judge, Chennai has chosen to dismiss the petition. I feel that the learned VII Additional Principal



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Family Judge, Chennai has rightly dealt the above issue and chosen to dismiss the petition filed to issue summons to the respondent's father. Hence, I find no reason to interfere with the order passed in I.A.No.2 of 2022.

9. In the result, the Civil Revision Petition in C.R.P.No.1842 of 2022 is dismissed and the other Civil Revision Petitions in C.R.P.Nos.1683, 1688, 2091 and 2113 of 2022 are allowed and the order dated 07.04.2022 passed in I.A.Nos.1 and 3 of 2022 is modified to the effect that the above petitions are allowed and the further cross examination of PW.1 should be completed in one and the same day, preferably within a week from the date of receipt of a copy of this order and the cross examination of PW.1 shall be limited to the purpose for which she was recalled. Consequently, the connected Miscellaneous Petitions are closed. No costs.

12.07.2022

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Index : Yes
Internet : Yes
Speaking Order



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To

1. The Judge, VII Additional Principal Family Court,
Chennai.
2. The Section Officer,
VR Section, Madras High Court,
Chennai.

R.N.MANJULA, J.

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