



CRP. No.4204 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP. No.4204 of 2018

U.Saravanan @ Jagadeeshwaran

...Petitioner

Vs.

1.Priya @ Uma

...Respondent

PRAYER: This Civil Revision Petition is filed under Article 227 of constitution of India, to set aside the docket order dated 23.03.2017 made in I.A No. 175 of 2017 in F.C.O.P No.727 of 2016 on the file of VI Additional Principal Judge, VI Additional Family Court, Chennai.

For Petitioner : Mr.K.Mayilsamy

For Respondent : Mr.A.Murali



CRP. No.4204 of 2018

ORDER

WEB COPY

This Civil Revision petition has been filed to set aside the docket order dated 23.03.2017 made in I.A No. 175 of 2017 in F.C.O.P No.727 of 2016 on the file of VI Additional Principal Judge, VI Additional Family Court, Chennai.

2. The Revision petitioner herein is the husband who filed the petition in F.C.O.P No. 727 of 2016 on the file of the VI Additional Family Court, Chennai, against his wife/respondent herein for divorce and also praying to declare the marriage as null and void under Section 12 (1) (C) of Hindu Marriage Act, 1955. The respondent/wife contested the case, during pendency of the case the husband/petitioner herein filed I.A No. 175 of 2007 for medical examination by a Government Doctor to prove that whether the respondent is a fit for matrimonial life and she is having capacity to give birth to child. The said application was strongly objected by the respondent. On hearing both sides Family Court held that there is no consumption of marriage then the question of examination of medical fitness as to sexual life is an unnecessary one and dismissed the application.



CRP. No.4204 of 2018

WEB COPY 3. Challenging the same husband preferred this Civil Revision Petition.

4. The learned counsel for the Revision Petitioner submitted that in order to prove allegation raised in the divorce Original Petition physical fitness of the wife is necessary for his claim but the same was not properly appreciated by the Trial Court. To prove the physical fitness of the wife all the medical examination is mandatory, without appreciating this fact the Trial Court erroneously dismissed the application which is mis-conception of law and fact and the same is liable to be set aside. He prays to allow the Civil Revision petition.

5. The learned counsel for the respondent submitted that there was no physical relationship between the petitioner and the respondent then there is no necessity for medical examination which was rightly appreciated by the Trial Court which needs no interference. He prays to dismiss the petition.

6. Heard Both sides. On perusal of records, it reveals that that the husband/petitioner herein fled F.C.O.P No. 727 of 2016 praying to dissolve the marriage is null and void by stating reason that wife is unfit to live



CRP. No.4204 of 2018

normal matrimonial life and she is also not interested in the sexual

relationship. In the meantime, the husband/petitioner herein filed I.A No.

175 of 2017 in F.C.O.P No. 727 of 2016 for medical examination of his wife/respondent herein by a Government Doctor to prove that the respondent is not fit for matrimonial life and she is not having capacity to give birth to child and report of the doctor would help him to prove his claim which he raised in the divorce petition. This Court is of the view that fitness of both the men and women is necessary for matrimonial life and also carrying the child. Further, the medical report is one of the document which serve the purpose of the allegation raised in the original petition which may support wife/respondent also. Accordingly, Order passed by the Trial Court in I.A No. 175 of 2017 in F.C.O.P No. 727 of 2016 is hereby set aside. Hence both the husband and wife are directed to appear before Government Head Quarter Hospital, Chennai, for medical examination to prove their medical fitness for the Matrimonial life within two months from the date of receipt of a copy of this order and after receiving the medical report the Trial Court is directed to dispose the matter on merits within six months.



WEB COPY



CRP. No.4204 of 2018

T.V.THAMILSELVI,J.

Pbl

7. In the result, the Civil Revision Petition is disposed of. No costs.

12.10.2022

pbl

To

1. The II Additional Family Court, Chennai.

CRP. No.4204 of 2018