



Crl.R.C.(MD) No.677 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

**Crl.R.C.(MD)No.677 of 2022
and
Crl.M.P.(MD)No.8448 of 2022**

Vigeshwaran ... Revision Petitioner/Petitioner/Respondent

Vs.

Manjuparkavi ... Respondent/Respondent/Petitioner

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and to set aside the order passed in Cr.M.P.No.129 of 2022, dated 27.06.2022 in M.C.No.28 of 2021 and direct the Family Court, Sivagangai District to mark the documents No.3 to 5 as exhibits.

**For Petitioner : Mr.S.Muthumalai Raja
for Mr.M.Pandiarajan**

For Respondent : Mr.N.Tamil Mani



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ORDER

This Criminal Revision Petition is directed against the order passed in Cr.M.P.No.129 of 2022, dated 27.06.2022 in M.C.No.28 of 2021 on the file of the Family Court, Sivagangai District, partly dismissing the petition filed under Order 7 Rule 14(1) and Section 151 of C.P.C for receiving some documents.

2.The respondent has filed a complaint under Section 125 of Cr.P.C. claiming maintenance. When the maintenance case is pending for trial, the respondent has filed an application in Cr.M.P.No.129 of 2022 seeking orders to receive five documents and the learned Judge of the Family Court, after conducting enquiry, has passed an order allowing the petition with respect to the first two documents and dismissed the petition with respect to the remaining three documents. The petitioner has sought to receive the CDR record for April and May 2020 with respect to the wife's cellphone and also the photos and the messages received through Whatsapp. The learned Family Judge, by observing that though the petitioner has pleaded adultery, the evidence sought to be received can be taken as a evidence of cruelty if proved and it cannot be a proof for adultery in the maintenance case,as the proof of sexual intercourse outside



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marriage is necessary for proving the plea of adultery and that therefore, since the documents 3 to 5 are not relevant for deciding the maintenance claim, dismissed the petition partly.

3.The learned counsel for the petitioner would submit that earlier, he has filed an application for divorce on mutual consent and that since the respondent has disputed her signature in the petition and disputed the very filing of the petition for divorce on mutual consent, the petitioner has withdrawn the said case and that thereafter, the respondent has filed the present maintenance case. Admittedly, the petitioner has not filed any petition for divorce on the ground of adultery and as of now, the present maintenance claim petition alone is pending between the parties. As rightly observed by the trial Court, the petitioner cannot be allowed to gather evidence for adultery in the present case.

4.On considering the above facts and circumstances and the materials available, the impugned order dismissing the relief with respect to the document Nos.3 to 5 cannot be found fault with. Hence, this Court concludes that the above revision is devoid of merits and the same is liable to be dismissed.



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5. Accordingly, this Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Internet : Yes/No

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To:-

1. The Family Court, Sivagangai District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

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**ORDER MADE IN
Crl.R.C.(MD)No.677 of 2022**

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