



C.R.P.Nos.2838, 2839 & 3015 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM:

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

C.R.P.Nos.2838, 2839 & 3015 of 2022

and

C.M.P.Nos.15370, 15371 & 16288 of 2022

R.Suresh Kumar

... Petitioner in all the CRPs

-Vs-

Punithavathy

... Respondent in all CRPs

Prayer : Civil Revision Petitions filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 20.07.2022 made in I.A.Nos.6, 7 and 8 of 2022 in HMOP No.58 of 2018 on the file of the Family Court at Tiruvallur.

For Petitioner : Mr.P.Chandrasekar

For Respondent : Mr.S.Sushil Kumar



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ORDER

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Challenging the impugned orders passed in I.A.Nos.6 to 8 of 2022 in H.M.O.P. No.58 of 2018 passed by the learned Family Court Judge, Thiruvallur, the Revision Petitioner husband preferred these Civil Revision Petitions.

2. So far as the Civil Revision Petition in C.R.P.No. 2839 of 2022 is concerned, before the trial court, the respondent wife filed an application in I.A.No.7 of 2022 praying to strike off the proceedings in H.M.O.P.No. 58 of 2018, which was filed by revision petitioner/husband stating that he failed to comply the order of maintenance and that application was allowed. Aggrieved over the same, he preferred the above C.R.P. However, as per the direction of this court, the Revision Petitioner husband paid part of arrears of maintenance for a sum of Rs.50,000/- by way of demand draft and the same was received by learned counsel for respondent today in open court, thereby he has paid the part of arrears. Therefore, this Court is inclined to direct the learned Family Court Judge, Tiruvallur to proceed with the H.M.O.P.No. 58 of 2018 and dispose the same within a period of four months from the date of receipt of this order.

3. In respect of other interlocutory applications are concerned, the



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Revision Petitioner filed a petition C.R.P.No.3015 of 2022 challenging the impugned order passed in I.A.No.8 of 2022 praying to receive memory card as document on the side of Revision Petitioner and also filed another petition in C.R.P.No.2838 of 2023 challenging the impugned order passed in I.A.No.6 of 2022 praying to amend the petition to include the ground of adultery as one of the ground for divorce. Both applications were dismissed by the Family Court Judge. Aggrieved over the same, the Revision Petitioner preferred those Civil Revision Petitions.

4. The learned counsel for Revision Petitioner would submit that originally, he filed a petition for divorce on the ground of cruelty, but later, he came to know that she developed illegal intimacy with one Prabhu, for that, he gave some videos and the same was converted into CD. Hence, necessity arose for him to amend the petition by including the prayer of adultery. Furthermore, he is also seeking permission of the court to receive the said C.D. on his side as document. Both applications were dismissed by the Family Court judge and made an observation that out of wedlock, two children were born to them and they were in custody of respondent wife, however, in the year of 2016 itself, she was forcibly sent out from the home. Now, after passing an order of maintenance, husband filed the



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present application stating that he found a sim card in the house of Thirunindravur where they lived together is not acceptable one for the reason that from the year of 2018 she is residing at Thirupachur. Furthermore, the ground of adultery also claimed on that basis by the husband was not acceptable one, thereby it was dismissed. Challenging the said findings, the Revision Petitioner husband preferred these Civil Revision Petitions.

5. The learned counsel for Revision Petitioner would submit that after filing of the petition, on enquiry, he came to know that the respondent wife developed illegal intimacy with another man. Hence, he prayed the court to amend the prayer by including the ground of adultery and also produced CD to that effect, but the same was not accepted by the Family Court. Accordingly, he prayed to set aside the findings of the Family Court.

6. Records perused. On perusal of entire facts, it reveals that by obtaining CD in an electronic media, a necessary certificate has not been enclosed as required under Sec.65-B of Indian Evidence Act as rightly pointed out by the learned counsel for respondent. Moreover, the case was filed in the year of 2016 for divorce on the ground of cruelty and now the



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Revision Petitioner came forward with the CD stating that a sim card was recently found in the house, but already it was recorded as per contentions of wife. So, I do not find any irregularity in the order passed by the Family Court Judge and the same is well-reasoned one. Accordingly, the Civil Revision Petitions in C.R.P.Nos.2838 & 3015 of 2023 are dismissed. Both parties are directed to cooperate with the proceedings. The Family Court Judge is directed to complete the trial and dispose the case within a period of three months from the date of receipt of copy of this order. Furthermore, since the wife is living with two minor children, the Revision Petitioner/husband is directed to pay maintenance and educational expenses regularly as well as arrears to the respondent wife without fail. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

30.11.2023

Index : Yes/No
Speaking Order : Yes/No
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To
The Family Court, Thiruvallur.



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T.V.THAMILSELVI, J.

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