



WEB COPY



Criminal R.C. No. 1661 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2023

CORAM

THE HON'BLE MR. JUSTICE M.NIRMAL KUMAR

Criminal R.C. No. 1661 of 2023

Syed Abdul Subhan

... Petitioner

-VS-

1. Sheriza Larif

2. S.Azam Sayeed

... Respondents

Prayer:- Criminal Revision Case filed under Sections 397 and 401 Cr.P.C. against the order of dismissal dated 18.08.2023 made in Criminal M.P. No.3362 of 2023 by the Chief Judicial Magistrate, Chengalpattu.

For Petitioner : Mr.S.Abdul Malik

ORDER

The petitioner, father of the second respondent, had moved a petition before the trial court to represent as power of attorney of the second respondent in proceedings M.C. No.3 of 2022. The first respondent herein, wife of the second respondent has filed a maintenance case before the Chief Judicial Magistrate, Chengalpet. Pending the proceedings, the petitioner herein has filed this revision petition.

2. Since the petitioner's son, the second respondent, is presently staying in Germany and he is unable to attend the court proceedings in M.C. No. 3 of



2022 has filed earlier C.M.P. Nos. 7642 and 7643 of 2023 in M.C. No. 3 of 2022 seeking dispensation of the personal appearance and the same were being allowed by the lower court on 06.04.2023. Hence, the power of attorney had been executed in favour of the petitioner by the second respondent and the same had been attested by Notary Public in Germany on 22.03.2022 and that the power of attorney had been adjudicated in the office of the Sub Registrar, Mylapore, Chennai and the same is registered as Document No.781 of 2022. With that power of attorney, the petitioner had approached the lower court. The lower court had negatived the same. Hence, the present petition.

3. The learned Additional Public Prosecutor, Mr. Damodaran, was asked to find out with regard to the petitioner's contentions.

4. The learned Additional Public Prosecutor has produced a citation of the Hon'ble Bombay High Court in the case of ***Shri Pravin Niwritti Sawant -vs- Suo.Nisha Pravin Sawant*** [Order dated 23.04.2007 in Criminal Writ Petition No. 497 of 2007] referring to Paragraph No.5, submitted that a power of attorney holder could not be allowed to appear and represent a case filed under Section 125(3) of Code of Criminal Procedure before the Magistrate Court.



5. He further referring to the judgment of the Hon'ble Apex Court in the case of ***T.C.Mathai -vs- District & Sessions Judge, Thiruvananthapuram, Kerala*** [(1999) 3 SCC 614] submitted that the power of attorney cannot be given to a recognized agent to conduct the proceedings in the same category as a vakalat given to a legal practitioner, though latter may be described as a power of attorney [which] is confined only to pleaders, i.e., those who have a right to plead in courts. It cannot override specific provision of a statute, which requires that a particular act should be done by a party-in-person. He further submitted that the impugned order is a detailed one, wherein the trial court had given reasons and had dismissed the same, which needs no interference.

6. On hearing the submissions of the learned counsel for the petitioner as well as the learned Additional Public Prosecutor, this Court confines no reason to interfere with the impugned order.

Accordingly, this criminal revision case is dismissed. No costs.

10.10.2023

NCS : Yes/No
Index: Yes/No
Maya



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M.NIRMAL KUMAR, J.

Maya

To

The Chief Judicial Magistrate,
Chengalpattu.

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Dated : 10.10.2023