



C.M.P.(MD)No.5016 of 2023
in Rev.Aplc(MD)SR.No.19528 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

C.M.P.(MD)No.5016 of 2023
in
Rev.Aplc(MD)SR.No.19528 of 2023

J.Jeyaprakash

... Petitioner

versus

N.Manjula

... Respondent

Prayer in C.M.P.(MD)No.5016 of 2023: Petition filed under Section 5 of the Limitation Act to condone the delay of 58 days in preferring the above review application.

Prayer in Rev.Aplc.(MD)SR.No.19528 of 2023: Review Application filed under Order XLVII Rule 1 and 2 r/w. Section 114 of C.P.C. to review the order dated 16.12.2022 made by this Court in Tr.C.M.P. (MD)No.640 of 2022.

For Petitioner : Mr.M.A.M.Raja



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ORDER

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The petitioner is the husband and the respondent is the wife. On the application filed by the respondent/wife for transferring I.A.No.2 of 2022, from the file of the Family Court, Theni, to the file of the Sub Court, Sankarankovil or to the Sub Court, Kovilpatti, Thoothukudi District, this Court, considering the dictum laid down by the Hon'ble Supreme Court in *Amitha Shah vs. Virendar Lal Shah* reported in **(2003) 10 SCC 609** that the convenience of the wife and children has to be considered while dealing with the petition for transfer, transferred the case from the Family Court, Theni, to the file of the Sub Court, Kovilpatti, by order dated 16.12.2022.

2. The learned counsel appearing for the petitioner submits that both the petitioner and the respondents are divorcees and the second marriage had taken place on 10.06.2022 and within one month from the date of marriage, they separated. Thereafter, the petitioner filed an application in I.A.No.2 of 2022 before the Family Court, Theni,



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seeking leave to file a divorce petition. Subsequently, the respondent has filed Tr.C.M.P.(MD)No.640 of 2022 before this Court seeking transfer of I.A.No.2 of 2022 in unregistered O.P.No. /2022 from the file of the Family Court, Theni, to either Sub Court, Sankarankovil or to the Sub Court, Kovilpatti, Thoothukudi District. He further submits that when the petitioner has visited the house of the respondent on 05.08.2022, he was assaulted by the respondent and her relatives, for which, he lodged a criminal case, which was treated as petition enquiry in CSR No.399 of 2022. Therefore, the petitioner apprehends that if he visits the Court at Kovilpatti, his life is at danger. But, the said fact was not brought to the knowledge of this Court, when this Court has disposed of the transfer application in Tr.C.M.P.(MD)No.640 of 2022. Now, the petitioner has filed this review application to review the earlier order of this Court dated 16.12.2022 passed in Tr.C.M.P. (MD)No.640 of 2022.

3. He further submits that pursuant to the order dated 16.12.2022



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passed in Tr.C.M.P.(MD)No.640 of 2022, the application in I.A.No.2 of 2022 has been transferred to the Sub Court, Kovilpatti and re-numbered as I.A.No.57 of 2022.

4. Heard the learned counsel appearing for the petitioner.

5. The grievance of the petitioner is that on 05.08.2022, when he visited the house of the respondent, he was assaulted by the respondent and her relatives, for which, he lodged a criminal complaint, which was pending in CSR No.399 of 2022. It appears that the incident had taken place at Theni and the petitioner has also lodged a complaint before the All Women Police Station, Theni. Now, the petitioner claims that the respondent is the resident of Tuticorin and if he visits the Court at Kovilpatti, his life is at danger. On this ground, he filed this review application along with the application in CMP(MD)No.5016 of 2023 in Rev. Aplc(MD)SR.No.19528 of 2023 to condone the delay of 58 days.



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6. This Court is not inclined to review the order dated 16.12.2022 passed by this Court in Tr.C.M.P.(MD)No.640 of 2022. Accordingly, C.M.P.(MD)No.5016 of 2023 filed to condone the delay of 58 days in filing the review application is dismissed and consequently, the review application filed in Rev.Aplc.(MD)Sr.No.19528 of 2023 is rejected at the SR stage itself.

7. However, considering the submissions made by the learned counsel for the petitioner that the petitioner is a divorcee and the second marriage also ended in failure, the Sub Court, Kovilpattai, is directed to dispose of the litigation pending between the parties, within a period of eight months from the date of receipt of a copy of this order.

26.04.2023

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NCC : Yes / No.

Index : Yes / No.

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B.PUGALENDHI, J.

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To

1. The Sub Court,
Kovilpattai.

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