



C.R.P(MD)Nos.1324 and 1325 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2023

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)Nos.1324 and 1325 of 2023

and

C.M.P(MD)Nos.6600 and 6616 of 2023

C.R.P(MD)No.1324 of 2023

Shwetha Shri

...Petitioner/Petitioner/
Petitioner/Petitioner

Vs.

Karthick Marimuthu

...Respondent/Respondent/
Respondent/Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records relating to the fair and decreetal order passed by the Subordinate Judge, Virudhunagar in I.A.No.3 of 2022 in I.A.No.2 of 2022 in H.M.O.P.No.113 of 2022 dated 06.02.2023 and set aside the same.

For Petitioner : Mr.Sasi Kumar
For Mr.G.Mariappan

For Respondent : Mr.T.Aswin Rajasimman
For M/s.Lajapathi Roy and Associates



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C.R.P(MD)No.1325 of 2023

Shwetha Shri

...Petitioner/Petitioner/
Petitioner

Vs.

Karthick Marimuthu

...Respondent/Respondent/
Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records relating to the fair and decreetal order passed by the Subordinate Judge, Virudhunagar in I.A.No.4 of 2022 in I.A.No.2 of 2022 in H.M.O.P.No.113 of 2022 dated 06.02.2023 and set aside the same.

For Petitioner : Mr.Sasi Kumar
For Mr.G.Mariappan

For Respondent : Mr.T.Aswin Rajasimman
For M/s.Lajapathi Roy and Associates

COMMON ORDER

The present Civil Revision Petitions have been filed against the fair and decreetal order passed by the Subordinate Judge, Virudhunagar in I.A.Nos.3 and 4 of 2022 in I.A.No.2 of 2022 in H.M.O.P.No.113 of 2022 dated 06.02.2023.



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2. After hearing the learned counsel for the petitioner and the learned counsel for the respondent, this Court is inclined to pass this common order by setting aside the impugned order in I.A.Nos.3 of 2022 and 4 of 2022, both dated 06.02.2022 in I.A.No.2 of 2022 in H.M.O.P.No.113 of 2022.

3. The facts on record reveal that the parties herein had originally attempted for divorce by mutual consent and filed H.M.O.P.No.218 of 2021. However, it was withdrawn by the petitioner on 22.07.2022. Thereafter, the petitioner has filed the present proceeding in H.M.O.P.No.113 of 2022 to dissolve the marriage on the ground of cruelty by the respondent. The marriage is said to be solemnised on 26.11.2020.

4. In H.M.O.P.No.113 of 2022, the petitioner has filed I.A.No.2 of 2022 under Section 24 of the Hindu Marriage Act, 1955 for interim maintenance. In the said application, the petitioner has also filed respective interlocutory applications in I.A.Nos.3 and 4 of 2022 in the light of the decision of the Hon'ble Supreme Court in the case of ***Rajnish Vs Neha and others*** reported in ***2021 2 SCC 324***. Paragraph



No.I to the enclosure to the judgment appears to have been *prima facie* not complied by the respondent while filing the affidavit. Paragraph No.I reads as under:

I. Self-employed persons / Professionals / Business Persons / Entrepreneur

1. *Brief description of nature of business/profession/vocation/self-employed/work activity.*
2. *Whether the business/profession/ self-employment is carried on as an individual, sole proprietorship concern, partnership concern, LLP, company or association of persons, HUF, joint family business or any other form? Give particulars of Applicant's share in the partnership/business/ professional association/self-employment. In case of partnership, specify the share in the profit/losses of the partnership.*
3. *Net Income from the business/profession/ partnership/self-employment.*
4. *Business/partnership/self-employment liabilities, if any, in case of such activity.*
5. *In case of business of company, provide brief details of last audited balance sheet to indicate profit and loss of the company in which such party is in business in the company.*
6. *In case of a partnership firm, provide details of the filings of the last Income Tax Return of partnership.*
7. *In case of self-employed individual, provide the filings of the last Income Tax Return from any such professional/business/vocational activity.*

Enclosure III

Affidavit for the State of Meghalaya

1. *Whether the woman is the youngest daughter of the family.*



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2. *Whether the woman is staying with her husband in her family property.*

3. *Whether she has any maternal uncle, who plays a very important role in their family matters, which includes settlement of matrimonial disputes. The woman should also disclose her clan and her lineage.*

4. *The woman should disclose if her children have adopted the surname of her mother, in as much as Khasi has been defined as “a person who adopts the surname of his or her mother”.*

5. *The woman should disclose if she gets any financial assistance from her clan or family member.*

6. *The woman should disclose if her parents are alive more specifically, her mother, and how many siblings she has.*

7. *In event of a woman not being the youngest daughter, she has to disclose who the youngest daughter is.*

8. *The woman should disclose if she has any movable or any immovable property, self-acquired or inherited from her clan.*

9. *The woman should disclose if she is married to tribal or non-tribal.*

The above format may be modified or adapted by the concerned Court, as may be considered appropriate.

5. Considering the above, the impugned order is set aside and the matter is remanded back to the Trial Court to pass fresh order taking note of the decision of the Hon'ble Supreme Court and the enclosure thereto, the content of which extracted above.



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6. The learned Subordinate Judge, Virudhunagar is directed to pass fresh order denovo in I.A.Nos.3 and 4 of 2022 as expeditiously as possible preferably within a period of 3 months from the date of receipt of copy of this order. The respondent shall file a detailed affidavit as it required by the decision of the Hon'ble Supreme Court (cited supra).

7. The present Civil Revision Petitions stand allowed with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

19.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1.The learned Subordinate Judge,
Virudhunagar.

2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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