



C.R.P.No.1651 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22.07.2024
PRONOUNCED ON : 20.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.1651 of 2024

N.Nikitta

... Petitioner / Petitioner

Vs.

M.Prashanth

... Respondent / Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in Tr.O.P.No.1393 of 2023, dated 01.09.2023, on the file of the Principal Family Court, Chennai.

For Petitioner : Ms.Kanimozhi Mathi
For Respondent : Mr.C.R.Malarvannan

ORDER

Challenging the order passed in Tr.O.P.No.1393 of 2023, dated 01.09.2023, by the learned Principal Family Judge, Chennai, the Revision Petitioner is before this Court with the present Revision.



2. Ms.Kanimozhi Mathi, the learned counsel appearing for the petitioner would submit that petitioner and the respondent got married according to the Hindu rites and customs on 22.11.2015 at 'Amaravathi Thirumana Mandapam', Neyveli. It was an arranged marriage and it is registered as SI.No.449/2015 in the Sub Registrar Office, Vadallur. The respondent filed H.M.O.P.No.4592 of 2023, on the file of 2nd Addl Family Court, Chennai, for cruelty and the petitioner filed H.M.O.P.No.651 of 2023, on the file of 3rd Addl. Family Court, Chennai, on the ground of Cruelty and Adultery. The petitioner further submits that due to extreme influence asserted by respondent in the H.M.O.P.No.4592 of 2017, before the 2nd Additional Family Court, Chennai, and to avoid conflict of interest and multiple proceeding and judgment, the petitioner filed Tr.O.P.No.1323 of 2023 on the file of Principal Family Court, Chennai for withdrawal of H.M.O.P.No.4592 of 2017 from the file of 2nd Addl. Family Court, Chennai and to transfer the same to the 3rd Addl. Family Court, Chennai, to be tried along with H.M.O.P.No.651 of 2023 in joint trail. The said petition was allowed and H.M.O.P.No.651 of 2023 is withdrawn from the file of Addl. Family Court-III, Chennai and transferred to the file of Addl Family Court-II, Chennai, for simultaneous trail.



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3. The learned counsel further submitted that after transfer of the papers, a Memo for joint trial was filed on 05.01.2024. The respondent filed reply Memo and objected vehemently. The 2nd Addl. Family Court, Chennai, the learned Principal Judge, Principal Family Court, Chennai, ordered simultaneous trial and therefore, rejected the memo for joint trial. Further, H.M.O.P.No.651 of 2023 filed by the petitioner has ripped for trial. It is further submitted that, if the simultaneous trial is conducted, there is again a chance of rendering multiple judgement in the HMOP's filed by the petitioner and the respondent separately. The learned judge ought to have allowed the Tr.O.P.No.1323 of 2023 filed by the petitioner for withdrawal of H.M.O.P.No.4592 of 2017 from the file of II Addl Family Court, Chennai, to the file of III Addl Family Court, Chennai, to be tried along with H.M.O.P.No.651 of 2023 in joint trial instead of simultaneous trial, considering the facts and circumstances of the case. But, the learned Judge failed to note that the respondent intentionally allowed the H.M.O.P.No.651 of 2023, for ex-parte and filed restoration petition only for the purpose not allowing to combine both cases together.



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4. Mr.C.R.Malarvannan, the learned counsel appearing for the respondent filed a counter and would submit that the Petitioner filed the present Civil Revision Petition only to protract the Divorce proceedings in H.M.O.P.No.4592 of 2017 pending before the learned II Additional Judge Family Court, Chennai. From the day of marriage on 22.11.2015, the Petitioner not interested in married life. The Petitioner refused sexual intercourse with the respondent. The Petitioner has severe ailments including psychiatric problems and her parents suppressed the same to respondent and his parents. The Petitioner not interest to live with the respondent. Further, the Petitioner behaved in all possible cruel ways and got separated from the respondent on 27.04.2016.

5. It is further submitted that the respondent unable to bear the cruelty and torture at the hands of the Petitioner, filed a Petition for Divorce in H.M.O.P.No.4592 of 2017 pending on the file of the learned II Additional Judge, Family Court, Chennai. The Petitioner entered appearance and started demanding money in Crores. For nearly four years she did not file counter. She filed maintenance Petition in M.C.No.191 of 2018, subsequently, when the respondent exposed her



employment details, she withdrew the same. The Petitioner received all her jewels and articles from the respondent in the Court itself. When trial commenced, the Petitioner not cooperated, she was taking years together for cross examination. To avoid trial in H.M.O.P.No.4592 of 2017, after nearly 5 years, the Petitioner filed a Petition for Divorce, on the ground of cruelty and adultery against the respondent and one Ms.Sridevi in H.M.O.P.No.651 of 2023 before the learned III Additional Judge, Family Court, Chennai. Thereafter, the Petitioner filed Transfer Petition in Tr.O.P.No.1393 of 2023 before the learned Principal Judge, Family Court, Chennai, to transfer the Divorce Petition in H.M.O.P.No.4592 of 2017 before the learned II Additional Judge Family Court, Chennai, to be tried jointly with the Petitioner's Divorce Petition in H.M.O.P.No.651 of 2023, before the learned III Additional Judge, Family Court, Chennai.

6. The learned counsel for the respondent further contended that the Divorce Petition filed by the petitioner in H.M.O.P.No.4592 of 2017 is in trial stage. The respondent let in evidence and the matter stands posted for cross by the petitioner. In the Divorce Petition filed by the petitioner in H.M.O.P.No.651 of 2023, not even the trial commenced. The issue involved in both the O.Ps. are different. The



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petitioner filed H.M.O.P.No.651 of 2023 for divorce, in order to stall the petition filed by the respondent in H.M.O.P.No.4592 of 2017, for divorce. Further one Ms.Sridevi, who made as 2nd respondent in the petition filed by the petitioner in H.M.O.P.No.651 of 2023 is not a party to the petition filed by the respondent in H.M.O.P.No.4592 of 2017. The learned Principal Judge, Family Court, Chennai, while accepting the contention of the respondent, rejected the request of the petitioner for joint trial, but ordered simultaneous trial. Hence, the learned counsel for the respondent prayed for dismissal of the Revision.

7. I have heard the learned counsels appearing on either side and perused the materials available on record.

8. On perusal of the records it is seen that the respondent/husband filed a petition for divorce in H.M.O.P.No.4592 of 2017 and the same is pending in the stage of cross. The petitioner filed a Petition in H.M.O.P.No.651 of 2023, for divorce on the grounds of cruelty and adultery and the same is pending before the learned III Additional Judge, Family Court, Chennai. According to the petitioner, due to extreme influence asserted by the respondent and to avoid



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conflict of interest and multiple proceeding and judgment, she filed Tr.O.P.No.1323 of 2023, before Principal Family Court, Chennai, for withdrawal of H.M.O.P.No.4592 of 2017 from the file of 2nd Additional Family Court, Chennai and to transfer the same to the file of 3rd Additional Family Court, Chennai, to be tried along with H.M.O.P.No.651 of 2023. The said petition was allowed and H.M.O.P.No.651 of 2023 is withdrawn from the file of III Additional Family Court, Chennai and transferred to the file of II Additional Family Court, Chennai, for simultaneous trial.

9. Further, it is seen that there is no valid reason for joint trial in both H.M.O.P.No.4592 of 2017 and H.M.O.P.No.651 of 2023, as the stages are different. The respondent / husband filed H.M.O.P.No.4592 of 2017, for divorce and the same is pending in the stage of P.W.1 cross, before the learned II Additional Judge, Family Court, Chennai. The petitioner / wife filed H.M.O.P.No.651 of 2023, for divorce on the grounds of adultery and cruelty and the same is pending in the stage of notice, before the learned III Additional Judge, Family Court, Chennai. According to the petitioner, the trial Court attempt to complete the trial in hurried manner. It is seen that on 16.06.2022, the petitioner/wife filed counter, the matter was posted



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for filing proof affidavit. On 19.07.2022, proof affidavit filed and an Interlocutory Application filed for receiving additional document and the same was allowed on 08.11.2022. Since counter not filed, the petition was allowed subject to proof of admissible and relevancy. On 15.02.2023, the matter was posted for cross. On 16.03.2023 the matter was passed over for cross examination and petitioner/wife not ready and cost imposed and extension time granted finally on 05.04.2023. On that day, the petitioner filed Tr.O.P.No.193 of 2023, when the case is pending in the stage of cross. The Petition filed by the petitioner / wife in H.M.O.P.No.651/2023, she endorsed that the case is pending before II Additional Family Court. According to the petitioner, the learned II Additional Judge, Family Court, urge to cross of P.W.1.

10. It is not in dispute both the H.M.O.Ps are pending for more than five years. The petitioner filed the Transfer Original Petition only after commencement of trial in H.M.O.P.No.4592 of 2017 filed by the respondent / husband for divorce. The two cases are in different stage. Further, the petitioner/wife has not filed any document in support of her contentions that the respondent is an influential person. At this stage, if the joint trial is ordered, it will lead to denova



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trial, which cause unnecessary delay and prolong the proceedings.

In order to avoid different date of hearings in two Courts, the Principal Judge, Principal Family Court, Chennai, ordered to transfer H.M.O.P.No.651 of 2023 from the file of III Additional Family Court, Chennai to the II Additional Family Court, to be tried simultaneously and this Court finds no infirmity with the reasoning and conclusion arrived at by the learned Principal Judge, Principal Family Court, Chennai.

11. In the result, the Civil Revision Petition stands dismissed, confirming the Fair and Decretal order passed in Tr.O.P.No.1393 of 2023, dated 01.09.2023, by the learned Principal Judge, Principal Family Court, Chennai. However, there shall be no order as to costs.

20.12.2024

Speaking Order/Non Speaking Order

Index : Yes/No

Internet : Yes

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To

The Principal Judge,
Principal Family Court,
Chennai.



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M.NIRMAL KUMAR, J.

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PRE-DELIVERY ORDER MADE IN

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