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Crl.R.C.Nos.1076 and 1116 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.Nos.1076 and 1116 of 2024

And

Crl.M.P.Nos.9119 and 9120 of 2024

Shyam Krishnaswamy ... Petitioner in both the Crl.R.Cs.

Vs.

1.Gomathy Mani

2.Trisha Shyam (Minor)

rep. by her Mother and Legal Guardian

Mrs.Gomathy Mani ... Respondents in both the Crl.R.Cs.

Common Prayer:

Criminal Revision Cases filed under Section 397 r/w 401 of Criminal Procedure Code, seeking to allow the criminal revision petition and set aside the order dated 14.02.2024 passed by the I Additional Family Court, Chennai in M.P.Nos.1131 and 1132 of 2023 respectively in M.C.No.29 of 2023.

For Petitioner : M/s.R.Thiagarajan

For Respondents : Mrs.R.Sumithra Chakkaravarthi

COMMON ORDER

The criminal revision cases have been filed seeking to set aside



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the order dated 14.02.2024 passed by the I Additional Family Court, Chennai in M.P.Nos.1131 and 1132 of 2023 respectively in M.C.No.29 of 2023.

2.The learned counsel for the petitioner submitted that the petitioner filed M.P.Nos.1131 and 1132 of 2023 in M.C.No.29 of 2023 seeking to grant permission to the petitioner's power of attorney P.Kishore present before the Family Court and to appear and to do all acts, deeds, things on behalf of the petitioner, however, the said petitions were dismissed by the trial Court. The learned counsel prayed that this Court may allow the revision and direct the trial Court to allow the power of attorney to enter appearance on behalf of the petitioner and to insist for the appearance of the petitioner in appropriate stage for rendering substantial justice.

3.The learned counsel for the respondents vehemently opposed for this Court considering the relief sought for and submitted that the trial is almost completed, pleadings is completed and it is only for the appearance of the parties that the case is pending.



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4. Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents.

5. Perusal of records disclose that the petitioner is in abroad for his employment. Hence, forcing him to appear before the trial Court for each and every hearing is not sustainable one. Further the proviso under Section 125 of Cr.P.C. is not punishable in nature and it is only for the welfare of the wife or dependants of the person. Therefore, the impugned order warrants interference.

6. In view of the above, the order dated 14.02.2024 passed by the I Additional Family Court, Chennai in M.P.Nos.1131 and 1132 of 2023 respectively in M.C.No.29 of 2023 is set aside and this Court pass the following order:

(i) The I Additional Family Court, Chennai is directed to permit the petitioner's power of attorney to appear and to do all acts, deeds, things on behalf of the petitioner, however.

(ii) The power of attorney appointed by the petitioner is directed to appear before the trial Court for each and every hearing.



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(iii) If the trial Court feels that the appearance of the petitioner is necessary, the trial Court shall insist for the petitioner's appearance with two weeks prior intimation to the petitioner.

(iv) The trial Court shall dispose of the maintenance case in M.C.No.29 of 2023, within a period of three months from the date of receipt of a copy of this order.

7. These revisions are allowed. Consequently, the connected miscellaneous petitions are closed.

12.07.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1. The I Additional Family Court,
Chennai.



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M.DHANDAPANI,J.
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