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C.R.P.No.2352 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.08.2024
PRONOUNCED ON : 06.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2352 of 2024
and
C.M.P. No.12340 of 2024

Sabarinath

... Petitioner

Vs.

Meenakshi Sougoumar

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 1805.2023 made in I.A.No.1334 of 2022 in G.O.P.No.22 of 2019, on the file of the Family Court, Puducherry.

For Petitioner : Mr.N.Manoharan

For Respondents : Mr.A.R.Nixon

ORDER

Challenging the order in I.A.No.1334 of 2022 in G.O.P.No.22 of 2019, on the file of the Family Court, Puducherry. the petitioner is before this Court with the present Revision.



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2. The petitioner is the husband and the respondent is the wife, who are parents of a child and hereinafter, for convenience, they shall be referred as husband and wife or father and mother as the reference may be.

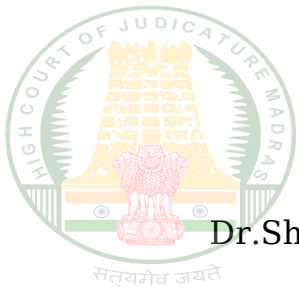
3. Briefly the facts of the case are that the Petitioner and the Respondent are Doctors by profession. The Marriage between the petitioner and the respondent was solemnized on 31.08.2014 at Arulmigu Manjaneesawarar – Ayyanarapan Temple, Pathupattu, as per Hindu Rites and Customs and the same was registered on 27.11.2014, in the Office of the Registrar, Pondicherry Municipality and they started their matrimonial life at Puducherry for some time. At the time of marriage, the petitioner was working in United Kingdom and the respondent was working in a Hospital in Pondicherry. Latter, the respondent travelled to the United Kingdom and joined with the respondent. Subsequently, due to her pregnancy, the respondent came to India and on 20.12.2018 delivered a female baby. In the meanwhile, the petitioner and her family members caused severe physical pain and mental torture and cruelty to the respondent. The behaviour of the petitioner with the respondent was not cordial. The petitioner denied to visit the child. Therefore, he filed



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an Application in I.A.No.703 of 2019, before the Family Court, Puducherry and the same was allowed, granting visitation right. Against which, the wife filed an application I.A.No.1334 of 2022 in G.O.P.No.22 of 2019, on the file of the Family Court, Puducherry, in and by which, the visiting right granted to the petitioner on 30.09.2021 has been suspended. Aggrieved over the same, the Revision Petitioner is before this Court with this Revision.

4. Mr.N.Manoharan, the learned counsel appearing for the petitioner/husband would submit that the petitioner has filed a petition in G.O.P.No.22 of 2019, on the file of learned District Judge, Family Court, Puducherry, against the respondent to appoint the petitioner as guardian of the infant child S.Lakshmi, born on 20.12.2018, aged 6 months and for permanent custody of the child. The wife filed M.O.P.No.320 of 2019, on the file of the District Judge, Family court, Puducherry, against the husband for divorce under Section 13(1)(ia) of the Hindu Marriage Act, to dissolve the marriage held on 31.08.2014. The learned counsel submitted that earlier petitioner got married to one Dr.Shanmugapriya in the year 2011. Even though the respondent and her family knew well about the said marriage, they deliberately created certain problems and abused



Dr. Shanmugapriya. Therefore, the petitioner's marriage with Dr. Shanmugapriya was dissolved by mutual consent in the year 2012.

Thereafter, the respondent and her family members insisted the petitioner to marry the respondent and marriage was solemnized between them at Puducherry on 31.08.2014. After the marriage, petitioner went to United Kingdom, continuing his medical practice. After arrival of the respondent to United Kingdom in April, 2015, she has started abusing the petitioner for trivial reasons and behaved with hysterical attitude. While so, the respondent became pregnant in 2018, she came to India on 16.10.2018 and she stayed with her parents at Puducherry. The petitioner was not allowed to meet or stay with the respondent.

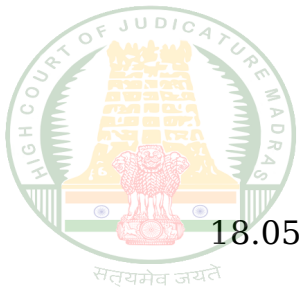
5. The learned counsel further submitted that the wife delivered a female child and the petitioner was allowed to see his daughter only in the hospital. Later, respondent / wife left three months old child with her parents and came to United Kingdom without prior intimation on 09.04.2019, collected all her articles under the protection of United Kingdom Police and left for India. Petitioner came to India on 11.05.2019 and made all efforts to reconcile any misunderstanding. The respondent and her parents refused the



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petitioner to visit even his daughter. Hence, the petitioner gave a complaint to AWPS, Orleanpet Police Station, Pondicherry in this regard. Further, the respondent filed MOP.No.320 of 2019 and the petitioner filed GOP No.22 of 2019, seeking custody of his daughter. Petitioner also filed I.A.No.702 of 2019, for interim custody, I.A. No. 703 of 2019, is filed for visitation right and I.A.Nos. 704 to 706 of 2019 for certain other reliefs. After hearing both sides, the learned Judge, Family Court, by order dated 30.09.2021 in I.A.No. 702 of 2019, granted visitation right directing the petitioner to to see his daughter on the 1st and 3rd Saturday of every month in the Family Court itself. Since the said order was disobeyed, the petitioner filed I.A.No.389 of 2022 for modification and it was allowed by appointing an Advocate Commissioner to be present during his visit to see his daughter. Even thereafter, his wife not allowed him to share any love with his daughter.

6. The learned counsel also submitted that wife filed an application in I.A.No.1334 of 2022, to suspend the interim order of visitation rights and I.A.No.1333 of 2022, to prevent the petitioner from leaving India till the disposal of GOP.No.22 of 2019. The interim application filed in GOP No.22 of 2019 listed for hearing on



18.05.2023. Since the petitioner not in India between February, 2023 and May 2023, his advocate failed to appear before the Family Court, the learned Judge, Family Court, allowed I.A.No.1334 of 2022, by suspending the visitation right granted to the petitioner on 30.09.2021. The factual matrix dealt with in the order dated 18.05.2023 are factually incorrect. Hence, the petitioner filed this Revision.

7. Mr.A.R.Nixon, the learned counsel appearing for the respondent/wife would submit that husband treated the wife with cruelty, insulted not only the wife but also her family members. The wife treated with unbearable mental cruelty by the husband. The allegations raised by the wife against the husband were matters of extreme cruelty and that no wife could be reasonably expected to continue a marital life after such vicious allegations were raised. As regards visitation rights is concerned, the petitioner has filed an application in I.A.No.1334 of 2022 in GOP.No.22 of 2019 to suspend the interim visitation right granted to the husband. On the hearing dates, neither the petitioner nor his counsel present and hence, the Family Court, Puducherry, has rightly suspended the visitation rights granted to the petitioner and this Court has no reason to interfere



with the findings of the Court below. Hence, the learned counsel prayed for dismissal of the Revision.

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

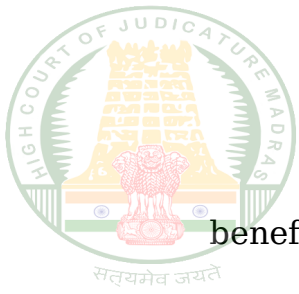
9. It is not in dispute that the Petitioner and the Respondent are Doctors by profession. The Marriage between the petitioner and the respondent was solemnized on 31.08.2014. On 20.12.2018, the respondent delivered a female baby. The relationship between the petitioner and the respondent not cordial. The wife refused the husband to visit the child. Due to bitterness in relations and for other reasons, the husband and wife initiated various proceedings under various enactments against each other, before the Family Court, Puducherry. The wife filed MOP.No.320 of 2019 to dissolve the marriage and the husband filed GOP No.22 of 2019, seeking custody of his daughter. Husband also filed an application in I.A. No. 703 of 2019, seeking visitation rights. After hearing both sides, the Family Court, granted visitation rights to the husband to accompany the child to see his daughter on the 1st and 3rd Saturday of every month in the Family Court itself.



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10. It is seen that the wife filed an application in I.A.No.1334 of 2022, to suspend the interim order of visitation rights granted to the husband and I.A.No.1333 of 2022 to prevent the petitioner from leaving India till the disposal of GOP.No.22 of 2019. The interim applications filed in GOP.No.22 of 2019 listed for hearing on 18.05.2023. The learned Family Judge allowed I.A.No.1334 of 2022, by suspending the visitation right granted the petitioner on 30.09.2021, since the petitioner continuously called absent. It is to be noted that during the relevant period viz., February, 2023 and May 2023, the husband was in abroad and his counsel called absent on the particular day, when the matter called for hearing by the Family Court, Pondicherry. No doubt, the petitions pertaining to child custody and visitation rights have to be dealt with more caution and seriousness instead of deciding the petition hurriedly. I find that it would not be appropriate for the Family Court to suspend visitation rights to the petitioner, since it will adversely affect the welfare of the child. Due to the misunderstanding between father and mother, the child should not be denied the love and affection of both parents, further the warm touch of the parents will have a bearing on the child's physical health and happiness. The child's welfare and



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benefit must be the paramount consideration, the same cannot be denied for technical reasons. Therefore, I am of the considered view, to meet the ends of justice, the petitioner may be given visitation rights to see his daughter.

11. In view of the above, this Revision is allowed and the order dated 18.05.2023 passed in I.A.No.1334 of 2022 in G.O.P.No.22 of 2019, on the file of the Family Court, Puducherry, is set aside and the visitation right granted to the petitioner in I.A.No.702 of 2019, should be maintained as per the order, dated 30.09.2021. However, liberty is given to the parties to seek further orders, as may be required from time to time, from the Family Court, Pondicherry. The Family Court, to refer the matter for Mediation to resolve the issue between the father and mother of the child, considering the child's welfare and futures as paramount, even if any earlier such exercise got stalled. No costs. Consequently, the connected miscellaneous petition is closed.

06.12.2024

Speaking Order/Non Speaking Order
Index : Yes/No
Internet : Yes
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C.R.P.No.2352 of 2024

M.NIRMAL KUMAR, J.

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To

1.The Family Court,
Puducherry.

PRE-DELIVERY ORDER MADE
IN
C.R.P.No.2352 of 2024

06.12.2024



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M. NIRMAL KUMAR, J.

This matter is posted today under the caption 'For being mentioned' at the instance of the learned counsel for the petitioner.

2. When the matter is taken up for hearing, the learned counsel for the petitioner brought it to the notice of the Court that in the order, the petitioner's name has been wrongly mentioned as “Sabarinath” instead of “Dr.Sabarinath Radhakrishnan”.

3. In view of the same, necessary corrections to be carried out in the order as follows:-

i) In the cause title of the order dated 06.12.2024 in CRP.No.2352 of 2024, the petitioner's name “Sabarinath” shall be replaced with “Dr.Sabarinath Radhakrishnan”.

4. Registry is directed to issue fresh order copy by incorporating the above said changes.

24.07.2025

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Note: Issue order copy on 24.07.2025.



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M. NIRMAL KUMAR, J.

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