



C.R.P.No.2077 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.2077 of 2024
and
C.M.P.No.11121 of 2024

G.Karunanidhi

..Petitioner

Vs.

K.K.Gaayathri

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the impugned order dated 11.03.2024 further as per order amended in I.A.No.9 of 2024 dated 24.04.2024 passed by the the learned II Additional Principal Family Court, Chennai in I.A.No.8 of 2023 in I.A.No.4 of 2022 in F.C.O.P.1817 of 2015.

For Petitioner : Mr.P.Vijendran

For Respondents : Mr.J.Rahul Jaganathan



C.R.P.No.2077 of 2024

ORDER

WEB COPY

This Civil Revision Petition arises against the order passed by the learned II Additional Principal Family Judge, Chennai in I.A.No.8 of 2023 in I.A.No.4 of 2022 in O.P.No.1817 of 2015 dated 11.03.2024.

2. I.A.No.8 of 2023 is an application to initiate proceedings under Section 340 of the Criminal Procedure Code, 1973 and also to reject the affidavit containing statement of assets and disabilities filed by the respondent. FCOP.No.1817 of 2015 is an application filed by the wife seeking for restitution of conjugal rights.

3. She pleads that she married the civil revision petitioner on 20.02.2011 at Tirupathi and set up their matrimonial home at Saligramam in Chennai. Alleging that the civil revision petitioner - husband had left her in lurch, she moved the family Court for the aforesaid relief.

4. Summons was served on the respondent husband. He filed a counter stating that he never married the respondent and the invitation card and photo that has been produced by the wife are a result of



C.R.P.No.2077 of 2024

fabrication. He would state that the wife is a real estate broker and a close friend of a politician. His plea is that she is projecting the case of marriage in order to grab his vast movable and immovable properties.

5. Pending proceedings, the respondent took out an application in I.A.No.4032 of 2018 seeking for an interim maintenance of Rs.2,50,000/- per month. The petitioner filed a detailed counter opposing the said application. The plea that there was no marriage between the petitioner and the respondent was raised again. A defence was raised stating that the alleged wife used to work in a cinema troupe and also used to do real estate business. He pleaded in the petition that there is no relationship of husband and wife between the petitioner and the respondent and the interim maintenance petition is not maintainable and deserves to be dismissed.

6. As declared by the Supreme Court in ***Rajnish Vs. Neha*** reported in ***2021 (2) SCC 324*** the respondent/ wife filed an affidavit of assets and liabilities. Subsequently, I.A.No.4032 of 2018 was renumbered as I.A.No.4 of 2022. In the said Interlocutory Application,



C.R.P.No.2077 of 2024

the civil revision petitioner filed an application to prosecute the respondent for perjury under Section 340 of the Code of Criminal Procedure and also sought for rejection of the affidavit of assets.

7. The learned trial Judge came to a conclusion that since the respondent wife has a joint account along with the civil revision petitioner, the petition deserves dismissal and accordingly dismissed it. Aggrieved by the same, the present civil revision petition.

8. Notice was ordered in this application on 22.05.2024. Summons was served on the respondent and Mr.J.Rahul Jajannatahn, learned counsel had entered appearance for the respondent.

9. The narration of the aforesaid facts would show that the plea of the civil revision petitioner is that there is no matrimonial relationship between the petitioner and the respondent. Unless and until this jurisdictional fact is proved, the Family Court cannot seize jurisdiction under Section 7 of the Family Courts Act.

10. If I were to concede to the plea of Mr.P.Vijendran that I.A.No.8



C.R.P.No.2077 of 2024

of 2023 has to be tried first and then the Interlocutory application for maintenance and original petition filed for restitution of conjugal rights later, then it would be a case of trial within a trial. My reading of the Family Courts Act or the Hindu Marriage Act or the Code of Civil Procedure does not permit successive trials within a trial.

11. Therefore, I put it to Mr.P.Vijendran and Mr.J.Rahul Jagannathan that instead of prolonging the agony of the parties by letting in evidence in Interlocutory Application first and in the Original Petition later, both the application as well as Original Petition may be taken up for final disposal. Both the learned counsel have no objection for the said course of action.

12. In the light of the above discussion. This civil revision petition is disposed of on the following lines:

- 1. The order passed by the learned Judge dated 11.03.2024 is set aside.*
- 2. I.A.No.8 of 2023 will stand restored on to the file of the II Additional Principal Family Court, Chennai.*
- 3. The learned Judge shall take up I.A.No.4 of 2022 and O.P.No.1817 of 2015 for disposal together.*



WEB COPY



C.R.P.No.2077 of 2024

4. *The evidence in the Original Petition as well as in Interlocutory Application will be recorded in common.*
5. *The learned Judge will hear the arguments in the application and the Original Petition together and pass a common judgment.*
6. *Depending upon the disposal of I.A.No.4 of 2022 and O.P.No.1817 of 2015 the orders will be passed in I.A.No.8 of 2023.*
7. *The learned Judge is requested to recollect that on 16.06.2023, this Court had given a direction to the II Additional Family Court to Dispose of HMOP within a period of six months.*
8. *Mr.J.Rahul Jagannathan, learned counsel submits that he will file his proof affidavit on 16.10.2024 and this undertaking is recorded. The Court shall open trial on that date.*
9. *The learned Family Judge shall not grant unnecessary adjournments either to the petitioner or to the respondent and ensure that the proceedings are disposed of within a period of six months from 16.10.2024.*
10. *A report shall be submitted to this Court in compliance of the direction given herein above on or before 21.04.2025.*



C.R.P.No.2077 of 2024

13. With the above directions, this Civil Revision Petition is disposed of. It is made clear that this Court has not gone into the merits of the allegations made by the petitioner or the respondent. In fact, I cannot go into the merits also, since the parties are yet to give evidence on the alleged relationship between them. No costs. Consequently, the connected miscellaneous petition is closed.

04.10.2024

dsa
Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
Speaking order / Non-Speaking order

To

The Judge,
II Additional Principal Judge,
Family Court, Chennai,



WEB COPY



C.R.P.No.2077 of 2024

V.LAKSHMINARAYANAN,J.

dsa

C.R.P.No.2077 of 2024

04.10.2024