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.Crl.RC.No.1116 of 2021.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

11.03.2024

CORAM:

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.RC.No.1116 of 2021
and
Crl.M.P.No.14242 of 2021

S.Mahesh

... Petitioner/Petitioner/Respondent

Vs.

1. Vijayalakshmi

2. Minor Nikisha Bala

Represented by mother,

Guardian and next friend

Vijayalakshmi/first Respondent ...Respondents/Respondents/Petitioners

PRAYER: Criminal Revision filed under Section 397 r/w. 401 of Cr.P.C., to call for the records in M.C.No.11 of 2019 on the file of the learned Chief Judicial Magistrate, Thiruvarur and set aside the Order in Crl.M.P.No.144 of 2020 dated 11.11.2021.

For Petitioner : Mr.T.Vijay

For Respondents : Mr.S.Udayakumar



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ORDER

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This Criminal Revision has been filed by the husband who is the Respondent in M.C.No.11/2019 on the file of the learned Chief Judicial Magistrate, Thiruvarur seeking to set aside the order of the learned Chief Judicial Magistrate, Thiruvarur in Crl.M.P.No.144/2020 in M.C.No.11/2019 dated 11.11.2021.

2. When the summons were served in M.C.No.11/2019 on the Respondent who is a resident of Thirumullaivoyal, he appeared before the learned Chief Judicial Magistrate and filed Crl.M.P.No.144/2020 questioning the territorial jurisdiction of M.C.No.11/2019 filed by the wife on the ground that the wife is employed and living in Chennai. Only to harass the husband to force him to travel to Thiruvarur, the Maintenance Case had been filed before the learned Chief Judicial Magistrate, Thiruvarur. The wife/Petitioner in M.C.No.11/2019 and Respondent in Crl.M.P.No.144/2020, had resisted the same by filing counter stating that the Court has jurisdiction as she is residing in Srivanjiyam within the local limits of learned Chief Judicial Magistrate, Thiruvarur.



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3. After due enquiry, the learned Chief Judicial Magistrate, Thiruvarur by Order dated 11.11.2021 dismissed the Crl.M.P.No.144/2020 holding that M.C.No.11/2019 filed by the wife and the minor child claiming maintenance against the husband has territorial jurisdiction.

4. On perusal of the Order passed by the learned Chief Judicial Magistrate, it is clearly stated that the husband as Respondent in M.C.No.11/2019 had not filed any piece of paper to prove his contention that the wife was employed and residing in Chennai. The learned Chief Judicial Magistrate had relied on the Orders passed by the High Court in Tr.C.M.P.No.917/2018 whereby HMOP filed by the husband seeking divorce was transferred to the file of the learned Sub Judge, Thiruvarur. Also, the learned Counsel appearing for the wife before the learned Chief Judicial Magistrate had relied on the following rulings:

(I) AIR (1999) SC 839 Supreme Court of India

(II) I (1991) DMC 368 Andhra Pradesh High Court, and

(III) (2019) 257 DLT 87 High Court, Delhi.



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Wherein it is stated that in cases involving in matrimonial dispute, the place where the wife resides and the Court nearer to the place of residence of the wife has territorial jurisdiction. Here, the wife is residing at Door No.5/162, Srivanjiyam, Nannilam Taluk, Thiruvarur District which is within the local limits of the Court of the learned Chief Judicial Magistrate, Thiruvarur. Also during enquiry, she had furnished the School admission card of the minor child/Nikisha Bala who is studying in Thiruvalluvar Nursery and Primary School, Nannilam. During arguments in this case, the learned Counsel for the Respondent/wife also submitted that the child is now aged 6 and studying in a School at Nannilam.

5. In Criminal Revision Case, the Revision Petitioner had furnished the affidavit filed by one Amutha Ganesh stating that he went to the residence of the Respondent, Vijayalakshmi to serve the Dasti Service in the pending proceedings before the Hon'ble Supreme Court in S.L.A.(Civil).No.28364/2019 on 27.12.2019 at Thiruvarur address i.e., No.43, Thiruvvanjiyam Village, Nannilam Taluk, Thiruvarur District and he found that the Respondent in Crl.R.C is not residing in the said address and he came to know from enquiry that the said Vijalakshmi/ Respondent



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in SLA.(Civil).No.28364/2019 is residing at Door No.9/4, 12th Street, Thilaiganga Nagar, Nanganallur, Chennai-600 061. When he went to the said residence, he met the said Vijayalakshmi, but she refused to accept the Dasti Service. Therefore, he had sent the Dasti Service as refused to receive by the Respondent in SLA.Civil.No.28364/2019.

6. The address given in the Maintenance Case by the wife as Petitioner is 5/162, Keezha Street, Sri Vaanjiam, Nannilam Taluk, Thiruvavarur District whereas the address mentioned by the said person Amutha Ganesh who had filed the affidavit in SLA(Civil).No.28364/2019 before the Hon'ble Supreme Court claims the address as No. 43, Thiruvvanjiyam Village, Nannilam Taluk, Thiruvavarur District. The said address is the address given by the husband/Petitioner in SLA(Civil).No.28364/2019. In this case, Thiruvvanjiyam and Srivanjiyam is different and the door number is also different. While so, the address claimed by Amutha Ganesh in the affidavit filed in SLA(Civil).No.28364/2019 before the Hon'ble Supreme Court is at Nanganallur in Chennai and the claim of the husband as Petitioner in Crl.M.P.No.144 of 2020 before the learned Chief Judicial Magistrate that



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his wife is residing and employed in Nanganallur at Chennai. If that be so, during enquiry he should have filed some documents before the learned Chief Judicial Magistrate, Thiruvarur. He had not done so. Until such document is filed, this Court cannot place reliance on the so-called affidavit of Amutha Ganesh. Who is Amutha Ganesh is not mentioned – whether he is an Advocate on record for the Petitioner in SLA(Civil).No.28364/2019 or Advocate Clerk or Court Officer or Staff of the Court? The Court at Alandur or the Court at learned Sub Judge, Alandur is not found in the affidavit. The affidavit relied by the learned Counsel for the Petitioner is rejected. If what had been claimed by the Revision Petitioner is true, it is the harassment caused to the wife to travel from Nanganallur to Thiruvarur. A person residing in Nanganallur can file Maintenance Case before the learned Judicial Magistrate, Alandur which is nearer to the place of her residence. The conduct of the Petitioner choosing a Court far away from Nanganallur as claimed by the husband is found unacceptable and unreasonable. Either she is residing along with her parents or she is residing nearer to the place of her parents. Anyhow, she is residing within the territorial jurisdiction of the learned Chief Judicial Magistrate, Thiruvarur. Therefore, the Orders passed by



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the learned Chief Judicial Magistrate in CrI.M.P.No. 144 of 2020 in M.C.No.11/2019 dated 11.11.2021 is found to be a well-reasoned order. The same is upheld and confirmed. This Revision lacks merit and is to be dismissed. By filing this Revision, husband had delayed the Maintenance case to his advantage by delaying the payment of maintenance to the wife and minor children.

In the result, *this Criminal Revision is dismissed as having no merits.* The learned Chief Judicial Magistrate, Thiruvarur is directed to conduct enquiry in M.C.No.11/2019 and pass appropriate Orders within a reasonable period of three months from the date of receipt of a copy of this Order, on a priority basis as it is a oldest case. Consequently, connected Miscellaneous Petition is closed.

11.03.2024

dh

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-speaking Order

SATHI KUMAR SUKUMARA KURUP, J.



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dh

To

The Chief Judicial Magistrate,
Thiruvarur.

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