



C.R.P.No.4442 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4442 of 2024 &
CMP.No.23901 of 2024

D.Prashanth

.. Petitioner

Versus

Monisha

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to direct the registry of the Family Court, Chennai to number O.P(Sr) No.3121 of 2024.

For Petitioner : Mr.Rahul Jagannathan

ORDER

The petitioners before the Family Court are husband and wife, one of whom belongs to the Hindu faith and the other belongs to the Christian faith. Their marriage was solemnized on 27.01.2019. Being persons of two



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different religions, they decided to get married as per both religious persuasions.

2. The petitioners also solemnized their wedding at SAN event hall, Kottivakkam, Chennai. They also solemnized their wedding as per the Christian rites and customs on the very same day at Annai Velankanni Shrine, Besant Nagar, Chennai. The wedlock lasted till 28.08.2022. The parties have been residing separately thereafter. Due to the fact that irreconcilable differences arose between them, they decided to put an end to the marriage and part as friends. Hence, they filed a petition before the Family Court, Chennai under Section 28 of the Special Marriage Act. The Family Court had returned the said petition stating that a certificate of marriage is necessary for processing the petition under Special Marriage Act. Challenging the said return, the revision is before me.

3. Mr.Rahul Jagannathan pleads that in terms of Section 42 of the Special Marriage Act, 1954, the fact that the marriage was not solemnized in accordance with the provisions of the Special Marriage Act does not invalidate the marriage. Therefore, he pleads, for the mere fact that there



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was no registration as required under Section 15 and Section 18, the petition need not be returned.

4. I have carefully analysed the submissions of Mr.Rahul Jagannathan.

5. In terms of the Special Marriage Act, an application has to be made to the Marriage Officer of the District under Section 5. On filing of such an application, a notice will be affixed on the board of the Marriage Officer and such other places as specified therein. Thereafter, objections will be called upon under Section 7. In case no objections are received, the marriage is solemnized and a certificate is issued as per Section 13 of Chapter III.

6. There is also a procedure to register the marriages which have taken place dehors Chapter II of the Act. This is in terms of Section 15 of Chapter III of the Special Marriage Act. Under the said provision, if a marriage has been celebrated in any other form, it can be registered by the Marriage Officer, if the parties demonstrate before the officer that a



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ceremony had been performed between the parties and they have been living as man and wife ever since. If that proof is given, the Marriage Officer registers the marriage under Section 16.

7. It is admitted, in this case, that the procedure under Chapters II and III of the Special Marriage Act had not been followed. The marriage had been registered in terms of the Tamil Nadu Registration of Marriages Act 2009. On this basis, Mr.Rahul Jagannathan argues that as the marriage has been registered, it should be treated as registered under the Special Marriage Act.

8. I am afraid I am not with Mr.Rahul Jagannathan on this point. If a marriage requires to be registered under the Special Marriages Act, then it has to be done in accordance with that Act. The purpose of the Tamil Nadu Registration of Marriages Act was to ensure that every marriage that takes place within the State of Tamil Nadu is registered. Even a marriage which is held under the Hindu Marriage Act can be registered under the Tamil Nadu Registration of Marriages Act. This does not mean that parties can bypass Chapter III and claim that the marriage is registered under the Special



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Marriage Act also. It is the same officer who registers the marriage under the Tamil Nadu Registration of Marriages Act as well as the Special Marriage Act. Yet the manner and procedure under which they are done under the Acts are entirely different. Therefore, the petitioners cannot claim that the return made by the Family Court is unjustified. Therefore, the civil revision petition is dismissed. No costs.

9. At this stage, since the parties have decided to separate and continuation of marriage is only on paper, it is always open to the petitioners in O.P.SR3121 of 2024 to follow Chapter III of the Special Marriage Act and have it registered. Thereafter, they can present a petition for separation by mutual consent. In case such a registration takes place, it is open to the petitioners to plead that they have separated with effect from 28.08.2022 and on that score seek for waiver of the cooling period.

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no



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To

The Family Court, Chennai



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V.LAKSHMINARAYANAN, J.

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