



C.RP(MD)No.1573 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19.07.2024

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

**C.R.P(MD)No.1573 of 2024
and
C.M.P(MD).No.9312 of 2024**

Savithiri

... Petitioner

Vs.

S.Seenivasan

...Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the entire records relating to the original proceedings in G.W.O.P.No.135 of 2023 on the file of the Additional District and Sessions Court, Dindigul and strike off the same.

For Petitioner

: Mr.S.Sivasubramanian

ORDER

The civil revision petition is filed to strike off the proceedings in G.W.O.P.No.135 of 2023 on the file of the Additional District and Sessions Court, Dindigul.



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2. G.W.O.P.No.135 of 2023 is filed by the respondent/father seeking custody of the minor child from the petitioner /grand-mother. A perusal of the material records of the case, it seems that the petitioner's daughter had unfortunately committed suicide. The petitioner has already filed a protest petition before the appropriate Criminal Court to protesting that the closure of the criminal case by the police in an FIR under Section 174 of the erstwhile Criminal Procedure Code is illegal and that the respondent should be prosecuted for an offence under Section 306 of the erstwhile Indian Penal Code. Now, when the Court is likely to consider the complicity of the respondent whether he is guilty of an offence under Section 306 or not, the custody of the child cannot be entrusted to the respondent/ husband at this stage. It is the further contention of the learned counsel for the petitioner that while on the one hand the criminal case is protracted, the GWOP alone is taken in a fast pace.

3. I have considered the submissions made and perused the materials record of the case.

4. It is the defense of the petitioner that since the respondent/ husband had illtreated the mother of the minor child and involved in an offence under



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Section 306 of the Indian Penal Code, he is not entitled for the custody of the minor child. It is the defence of the petitioner that handing over the custody of the minor child to the respondent/ husband, who has committed the criminal offence, will not be in the best interest of the child. If that be so, on those grounds, this Court cannot entertain a petition to strike off the very proceedings itself. It would be open for the petitioner to raise all such pleas before the trial Court and the trial Court shall consider the same dispassionately. Leaving it open for the petitioner to raise all the grounds before the trial Court, the Civil Revision Petition is dismissed. It will be open for the petitioner to even raise the contentions regarding the pendency of the protest petition also before the trial Court. No cost. Consequently, connected Miscellaneous Petition is closed.

19.07.2024

NCC:Yes/No
Index:Yes/No
Rmk

To
1.The Additional District and Sessions Judge, Dindigul.



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D.BHARATHA CHAKRAVARTHY, J.

Rmk

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