



C.R.P.No.5105 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 07.01.2025

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.5105 of 2024
and CMP.No.28639 of 2024

J.Arun Raj Kumar

.. Petitioner

Versus

1.A.Jeya Veronica
2.Joseph
3.Lidia

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the judgment in Crl.A.No.29 of 2022 on the file of the Principal District and Sessions Judge of Kancheepuram District at Chengalpattu dated 28.11.2023.

For Petitioner : Mr.R.Suresh Kumar
for M/s.K.M.Vijayan Associates
Mr.G.Kannan

For R1 : Mr.M.Padmanabhan



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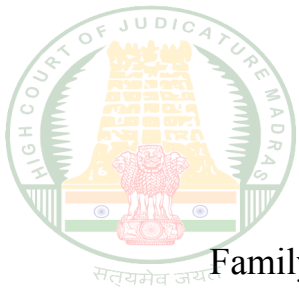
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ORDER

This Civil Revision Petition challenges the order passed by the learned Principal District and Sessions Judge of Kancheepuram District at Chengalpattu in Crl.A.No.29 of 2022 dated 28.11.2023 in imposing conditions while confirming the order of the learned Judicial Magistrate No.I, Tambaram in Crl.M.P.No.2801 of 2022 in DVC.No.28 of 2016 dated 23.08.2021.

2.The civil revision petitioner is the first appellant in Crl.A.No.29 of 2022. The respondents 2 and 3 were the other appellants before the learned Principal District and Sessions Judge of Kancheepuram District at Chengalpattu and they have not preferred any revision.

3.The petitioner married the first respondent as per the Christian rites and customs on 13.12.2009 at Madurai. From the wedlock, a female child was born on 05.01.2012. Due to disputes and differences, the parties have separated. The petitioner had initiated I.D.O.P.No.42 of 2013 before the



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Family Court at Madurai seeking restitution of conjugal rights. This was transferred to the Principal District Court, Chengalpattu and renumbered as I.D.O.P.No.124 of 2014. This petition was allowed on 17.02.2015. Since the parties did not reunite, the petitioner filed I.D.O.P.No.66 of 2015 on the file of the Family Court at Madurai. Similarly, the first respondent had initiated I.D.O.P.No.90 of 2015 on the file of the Principal District Court, Chengalpattu.

4.I.D.O.P.No.66 of 2015 was taken up for disposal and an exparte decree of divorce was granted on 23.02.2016. The first respondent filed an application to set aside the exparte decree in I.A.No.75 of 2017. That application came to be dismissed for default on 30.01.2020. The petition for divorce filed by the wife in I.D.O.P.No.90 of 2015 stood transferred to the file of the Family Court at Chengalpattu and renumbered as F.C.I.D.O.P.No.74 of 2016. The said petition was dismissed for default on 11.01.2021. Thereafter, the wife has initiated DVC.No.28 of 2016 on the file of the learned Judicial Magistrate No.I, Tambaram. Summons were sent to the petitioner and respondents 2 and 3 herein. They remained exparte.



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Therefore, the learned Judicial Magistrate allowed the application on 23.08.2021.

5. Without any delay, the petitioner and the respondents 2 and 3 filed Crl.M.P.No.2801 of 2022 in DVC.No.28 of 2016. The prayer before the Court in Crl.M.P.No.2801 of 2022 was two fold. It sought for recalling of the order dated 23.08.2021 as well as to dismiss DVC.No.28 of 2016 as not maintainable. This application was resisted by the wife by filing a detailed counter. The learned Judicial Magistrate No.I, Tambaram passed an order on 12.05.2022 allowing the application insofar as it related to the exparte order and restored the DVC back on to the file. In other words, the order passed for maintenance and other reliefs in and by way of the order dated 23.08.2021 was set aside. The wife did not file an appeal against this order.

6. Feeling aggrieved over the rejection of the petition insofar as it did not dismissed the DVC as not maintainable, the sole petitioner and the respondents 2 and 3 herein preferred Crl.A.No.29 of 2022. The learned Principal District and Sessions Judge of Kancheepuram District at



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Chengalpattu dismissed the appeal. However, the Court directed the husband/civil revision petitioner to pay the arrears of maintenance as fixed by the Trial Court within a period of three months and in default, directed forfeiture of the right to defend the DVC proceedings. Aggrieved by the same, the present civil revision petition.

7.I heard Mr.R.Suresh Kumar, learned counsel for Mr.G.Kannan and Mr.M.Padmanabhan, learned counsel for the first respondent.

8.When the exparte order passed in DVC.No.28 of 2016 on 23.08.2021 has been set aside, the order of maintenance granted under the said order also stands set aside. No appeal had been preferred by the wife aggrieved over setting aside the exparte order. The appeal had been preferred by the husband and his parents aggrieved over the fact that the latter portion of the petition in Crl.M.P.No.2801 of 2022 had been denied. I do not find any error in the order of the learned Judge, holding that the request of the petitioner and the respondents 2 and 3 to dismiss the petition as not maintainable, is untenable. The view of the learned Trial Judge as



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well as the learned Appellate Judge holding the DVC is maintainable requires confirmation and it is accordingly confirmed.

9.However, the learned Appellate Judge committed an error in directing payment of maintenance, when the order directing maintenance itself had been set aside. Therefore, that portion of the order alone requires interference. The condition imposed by the learned Judge directing the civil revision petitioner to pay arrears of maintenance within a period of three months is set aside.

10.The learned Judicial Magistrate at Pallavaram is requested to dispose of the application DVC No.55 of 2023 [originally filed before the learned Judicial Magistrate No.I, Tambaram as DVC.No.28 of 2016] within a period of sixty days from the date of receipt of a copy of this order and submit a report to this Court of compliance of the same. The learned Judicial Magistrate at Pallavaram is requested to ensure that the proceedings are conducted as expeditiously as possible ensuring that the matter receives atleast two effective hearings every week.



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11. With the above direction, this civil revision petition is disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

12. For reporting compliance, list the matter on 07.03.2025.

07.01.2025

Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no

cse

Note: Issue order copy on 08.01.2025

To

1. The Principal District and Sessions Judge,
of Kancheepuram District at Chengalpattu.

2. The Judicial Magistrate,
Pallavaram.



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V.LAKSHMINARAYANAN, J.

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