



C.R.P.No.5217 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2025

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THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.5217 of 2024

Vaiyapuri @ Pradeepkumar ... Petitioner

Vs.

D.Muthuselvi ... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to allow the civil revision petition and set aside the order of dismissal dated 06.11.2024 passed in I.A.No.13 of 2024 in H.M.O.P.No.1 of 2024 on the file of the Sub Court, Kodumudi, Erode District.

For Petitioner : Mr.K.Balasubramaniam

ORDER

This civil revision petition arises against the order passed by the Sub Judge, Kodumudi, Erode District, in I.A.No.13 of 2024 in H.M.O.P.No.1 of 2024, dated 06.11.2024.



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2.The Civil Revision Petitioner is the husband. H.M.O.P.No.1 of 2024, on the file of the Sub Judge, Kodumudi, Erode District, was originally presented as F.C.O.P. No.257 of 2021, on the file of Principal Family Court at Erode. Subsequently, it was transferred to the file of the Subordinate Judge, at Kodumudi. The wife pleads that she had been treated with cruelty by the husband and hence, has sought for divorce.

3.Pleadings have been completed and the parties have entered the witness box. When the matter was posted for evidence of PW1, the husband initially did not cross examine the wife and hence, her evidences was closed. Thereafter, it was reopened and the evidence has been completed.

4.At the stage of trial, the husband moved an application in I.A. No.13 of 2024 seeking for a direction to summon the call records, SMS details and tower locations of three mobile numbers. His plea was that



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these are essential to prove that the respondent wife had been in contact with two other gentlemen during the subsistence of the marriage. Therefore, he wanted to summon the records from 31.08.2020 to 28.12.2024 for production before this Court.

5.This application was resisted by the respondent wife pleading that the husband had already submitted that he has “no objection” for the grant of divorce. She also pointed out that one of the numbers, the details of which he seeks to summon, was the one provided by her office. Post separation from the civil revision petitioner, she stated that she had surrendered the SIM card to her office and had secured a new connection. She also pointed out that, on and from 21.12.2023, a direction had been given by the Union of India, Department of Telecommunications that call records should be maintained only for a period of two years. On these grounds, she pleaded for dismissal of the petition.

6.The learned Trial Judge, taking into consideration, the objections



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filed by the wife and further the direction given by this Court that HMOP itself must be disposed of within a period of six months, dismissed the petition. Hence this civil revision petition.

7.I heard Mr.K.Balasubramaniam in support of the revision.

8.Mr.K.Balasubramaniam pleads that the learned Subordinate Judge had erred in dismissing the petition. He brings to my notice the averments in paragraph No.19 of the counter filed to the main HMOP and pleads that even at the earliest point of time, he had pleaded that the wife was continuously talking to two gentlemen at late hours and therefore, the Trial Court ought to have allowed the application.

9.I have carefully considered the submissions of Mr.K.Balasubramaniam.

10.The petition has been filed by the wife seeking for divorce on the



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ground of cruelty. The stand of the husband is that he has “no objection” for the grant of divorce. In fact, he has specifically stated that the Court can pass an order nullifying or dissolving the marriage that was solemnized between the petitioner and the respondent, but not for the reasons stated by the respondent wife. Having taken this position, he had taken out an application in I.A.No.13 of 2024 to summon the call records. The portion of the pleadings, which is relied upon by Mr.K.Balasubramaniam shows absolutely no details have been furnished in the counter. The persons whose call records the petitioner wants to summon to the Court have not been named in the counter.

11.Apart from that, as pointed out by the learned Judge, the Union of India has given a direction that call records should be maintained only for a period of two years. That being the situation, even if the Court were to allow the application, by no stretch of imagination can the call records be summoned from the year 2020 to 2022 at all. The divorce petition came to be filed before the Family Court at Erode on 26.04.2021. Therefore, the



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very purpose for which the application has been filed has lost its relevance.

It is not in dispute that the parties to this revision have separated as early as in the year 2021. To summon the call records of the wife from the year 2022 to 2024 does not in any way assist the civil revision petition.

12.The Trial Judge is reminded of the direction that has been given by this Court earlier. He shall strictly comply with the same and pass final orders in H.M.O.P. No.1 of 2024 without any further delay.

13.With the above observations, this civil revision petition stands dismissed. No Costs.

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03.01.2025

Internet:Yes

Index:Yes/No

Speaking/Non speaking order

NCC: Yes/No



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To:

The Sub Judge,
Kodumudi, Erode District.



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V.LAKSHMINARAYANAN,J.

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