



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 03.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[PD](MD)No.606 of 2023

and

C.M.P.(MD)No.2787 of 2023

Mehavarnathevan

...Petitioner

Vs.

Gomathy

...Respondent

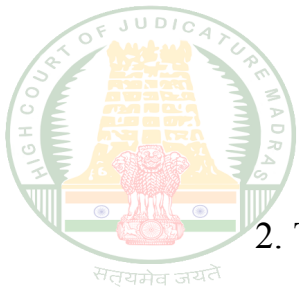
PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the order made in I.A.No.4 of 2022 in H.M.O.P.No. 67 of 2022 dated 21.12.2022 on the file of the Family Court, Karur, by allowing this revision petition petition.

For Petitioner : Mr.R.Sundar

For Respondent : Mr.V.Nagarajan

ORDER

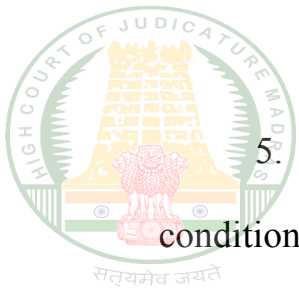
This Civil Revision Petition has been filed seeking to set aside the order made in I.A.No.4 of 2022 in H.M.O.P.No.67 of 2022 dated 21.12.2022 on the file of the Family Court, Karur.



2. The petitioner herein filed a petition in H.M.O.P.No.67 of 2022 before the learned Family Judge, Karur, against the respondent, seeking divorce under Section 13(1)(i) and (i-a) of the Hindu Marriage Act, 1955. Pending the petition, the petitioner filed an interlocutory application in I.A.No.4 of 2022, seeking permission to produce a Compact Disc (CD) along with the original mobile phone containing a recorded telephonic conversation between the petitioner and another person. However, the said application was dismissed on 21.12.2022 on the ground that the petitioner had not produced the certificate under Section 65B(4) of the Indian Evidence Act, 1872.

3. The learned counsel appearing for the petitioner submits that the petitioner may be permitted to file the 65B(4) certificate along with the original mobile phone containing the relevant telephonic conversation. He further submits that this evidence is material to substantiate the grounds of divorce and requests that the Family Court be directed to receive the same and permit cross-examination, if necessary.

4. The learned counsel appearing for the respondent submits that he has no serious objection to the above submission and that the respondent may be given liberty to cross-examine the evidence if it is permitted to be marked.

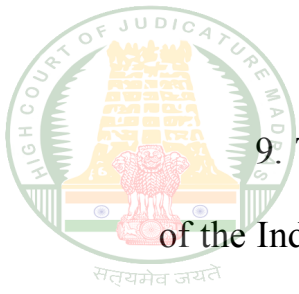


5. Section 65B of the Indian Evidence Act, 1872 lays down the conditions for admissibility of electronic records. Sub-section (4) specifically mandates that any electronic record presented as evidence must be accompanied by a certificate that meets the requirements laid out therein. The absence of such a certificate may render the electronic evidence inadmissible.

6. In the present case, the Family Court rejected the petitioner's application solely on the ground of non-filing of the Section 65B(4) certificate. However, it is settled law that a party may be granted an opportunity to cure such procedural defects, particularly when the evidence is relevant and material to the issue in controversy.

7. Since the petitioner now seeks to file the necessary certificate and produce the original device, and in view of the respondent's consent, this Court is inclined to allow the Civil Revision Petition by setting aside the impugned order and remanding the matter for reconsideration.

8. In the light of the above discussion, the Civil Revision Petition is allowed. The order dated 21.12.2022 made in I.A.No.4 of 2022 in H.M.O.P.No. 67 of 2022 on the file of the Family Court, Karur, is hereby set aside.



9. The petitioner is permitted to file the certificate under Section 65B(4) of the Indian Evidence Act, 1872, along with the original mobile phone and CD containing the telephonic conversation. The Family Court, Karur, is directed to receive the said evidence in accordance with law and afford sufficient opportunity to the respondent to cross-examine the same. No costs. Consequently, connected miscellaneous petition is closed.

03.07.2025

Internet:Yes/No

Index:Yes/No

TSG

To

1.The Family Court, Karur.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

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