



C.R..P.(PD)(MD).No.789 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.789 of 2025

and

C.M.P(MD) No.4234 of 2025

B.Sugirtha @ Catherine Sugirtha

... Petitioner/Respondent/
Respondent

Vs.

1. V.Arockia Christopher

... 1st Respondent/
Petitioner/Petitioner

2. Balu Justin Raj

... 2nd Respondent/
2nd Respondent/2nd Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records in I.A.No.1 of 2023 in I.D.O.P.No.324 of 2021 on the file of the learned Judge of the Family Court, Madurai, and set aside the order dated 03.07.2024.

For Petitioner : Ms.K.P.Ilakkiya
for M/s.APN Law Associates



C.R..P.(PD)(MD).No.789 of 2025

WEB COPY

ORDER

The respondent/wife in I.D.O.P.No.324 of 2021 on the file of the Family Court, Madurai has filed the present Civil Revision Petition challenging the order, wherein, the family Court has allowed an application to implead the alleged adulterer in the divorce proceedings.

2. The first respondent herein has filed I.D.O.P.No.324 of 2021 before the Family Court, seeking divorce on the ground of adultery. However, at the time of filing of the divorce petition, the alleged adulterer was not impleaded.

3. The respondent/wife had filed I.A.No.1285 of 2022 under Order 7 Rule 11 of C.P.C to reject the divorce petition on the ground that the alleged adulterer has not been impleaded as contemplated under Section 11 of the Divorce Act. This application was disposed of by the Family Court on 08.08.2023 with a direction to the husband to implead the alleged adulterer within a period of one month. This order has not been challenged by the revision petitioner/wife.



C.R..P.(PD)(MD).No.789 of 2025

WEB COPY

4. In compliance with the order passed in I.A.No.1285 of 2022, the husband had filed I.A.No.1 of 2023 to implead the adulterer. This application has been allowed by the Family Court, Madurai. Challenging the same, the present Civil Revision Petition has been filed.

5. According to the learned counsel appearing for the revision petitioner, without establishing the allegation of adultery, the adulterer cannot be impleaded. He further contended that the husband has not chosen to implead the adulterer when he had filed the divorce petition. However, only after Order 7 Rule 11 of C.P.C application is filed by the wife, the present application has been filed to implead the adulterer. By impleading the alleged adulterer, who is an unknown person to the revision petitioner, the husband is trying to make out a case of adultery and attacking the character of his wife. In such circumstances, the impleading petition ought not have been allowed by the Family Court, Madurai.

6. Heard the learned counsel appearing for the petitioner and perused the material on records.



C.R..P.(PD)(MD).No.789 of 2025

WEB COPY

7. Admittedly, the parties are Christians and they are governed by the Indian Divorce Act, 1869. As per Section 11 of the said Act, the alleged adulterer should be made as a party, unless any one of the circumstances contemplated under Section 11 of Indian Divorce Act, clause A to C are made out. In the present case, admittedly, those exceptional clauses have not been made out. The wife had filed an application in I.A.No.1285 of 2022 to reject the divorce petition on the sole ground that the adulterer has not been impleaded. The trial Court has disposed of the said application with a direction to implead the alleged adulterer within a period of one month. Only pursuant to the said order, the present impleading application has been filed by the husband. Therefore, this Court does not find any illegality or infirmity in the order passed by the trial Court.

8. Merely because, a third party has been impleaded as alleged adulterer, it does not mean the husband has proved the case of adultery as against the wife. The entire burden would be upon the husband to prove the allegations of adultery for getting a decree for divorce.



C.R..P.(PD)(MD).No.789 of 2025

WEB COPY

9. With the above said clarification, this Civil Revision Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

14.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Family Court,
Madurai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P(PD)(MD)No.789 of 2025

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