

CrL.R.C.(MD)No.981 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CrL.R.C.(MD)No.981 of 2025

1.Palani Pandi

2.Ramesh Kumar

3.S.Selvarani

... Petitioners

-VS-

Nil

... Respondent

PRAYER : Criminal Revision Case filed under Section 438 r/w. 442 of BNSS, 2023, to set aside the order dated 08.07.2025, passed by the learned Judicial Magistrate, Uthamapalayam, in CrI.M.P.No.124 of 2025.

For Petitioner

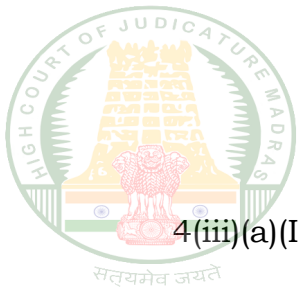
: Mr.A.Senthilkumar

ORDER

Challenging the order passed by the learned Judicial Magistrate, Uthamapalayam, in Cr.M.P.No.124 of 2025 dated 08.07.2025, this Criminal Revision Petition is filed.

Case Background:-

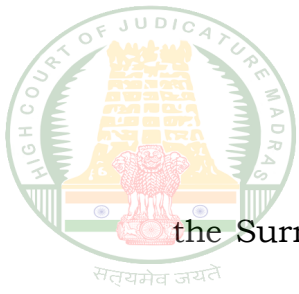
2.The petitioners filed a joint petition under Sections 4(iii)(a)(II) and



4(iii)(a)(III) of the Surrogacy (Regulation) Act, 2021, seeking permission of the learned Trial Court to recognize petitioners 1 and 2 as intended parents and to grant custody of the child to be born through surrogacy, with the third petitioner acting as the surrogate mother. They also produced an affidavit regarding insurance coverage and placed on record all documents mandated under the Act for due consideration. However, while recording the sworn statement of the third petitioner, who is the proposed surrogate mother, the learned Trial Court noted that she failed to correctly depose her date of marriage. This led the learned Trial Court to question her bonafides. The learned Trial Court reasoned that in surrogacy proceedings, the willingness and background of the surrogate mother must inspire full confidence, and any ambiguity, even inadvertent, could cast doubt. On this basis, the application was dismissed. Aggrieved by the said order, the present Revision Case has been filed.

Submissions:-

3.The learned counsel appearing for the petitioners contended that the dismissal was wholly unwarranted and unsustainable. The third petitioner, being unaccustomed to court proceedings, became nervous and stated that her marriage was around 15 years ago but could not recollect the exact date at that moment. However, a proof affidavit was already filed clearly mentioning the date of marriage as 07.08.2008. The dismissal, solely on this trivial lapse, overlooks the fact that all requirements under



the Surrogacy (Regulation) Act, 2021, particularly those under Chapter III concerning regulation of surrogacy procedures, were duly complied with. It was argued that the learned Trial Court, instead of dismissing the application, ought to have objectively assessed the compliance and allowed the Revision Case.

4.I have heard the submissions of the learned counsel for the petitioners and carefully examined the records.

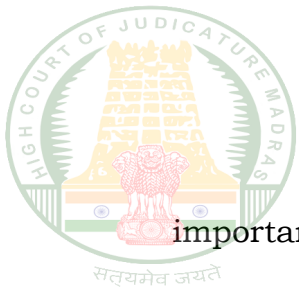
Analysis:-

5.The Surrogacy (Regulation) Act, 2021, is a beneficial legislation enacted with the primary objective of regulating surrogacy in India and, more importantly, addressing the growing problem of infertility among young couples. Infertility has emerged as a pressing social and medical concern, with studies showing that lifestyle changes, environmental factors, and health conditions are contributing to a decline in fertility rates in the country. The Act, therefore, seeks to provide a legally structured, ethical, and medically safe pathway for childless couples to experience parenthood (***Baby Manji Yamada v. Union of India*¹** and ***Union of India v. Satya*²**).

6.In this context, the role of the judiciary assumes heightened

1 (2008) 13 SCC 518

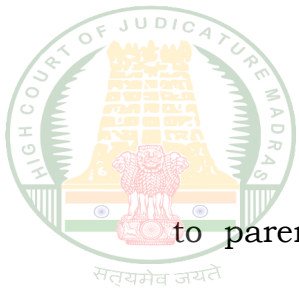
2 (2021) 8 SCC 503



importance. Courts must not treat surrogacy petitions as routine applications but as matters touching upon the deepest aspirations of human life — the desire to have a child. Judicial officers are therefore expected to approach such petitions with sensitivity, responsibility, and compassion, ensuring that the statutory safeguards under the Act are complied with while also not frustrating the welfare objective of the legislation .

7.In the present case, the learned Trial Court erred in dismissing the petition solely because of the surrogate mother's nervousness in recalling the date of her marriage. Such a technical lapse cannot outweigh the overwhelming compliance with the statutory requirements under the Act. The petitioners had already furnished all necessary documents, including the marriage certificate, the death certificate of the surrogate mother's husband, and the widow certificate. Once these materials are available, the dismissal of the application on a trivial ground reflects a failure to appreciate the object and purpose of the Surrogacy Act.

8.The Act enjoins Courts to uphold the welfare of intended parents and surrogate mothers within its regulatory framework. A dismissive approach, particularly after keeping the matter pending for seven months, reflects social irresponsibility and undermines the plight of childless couples. The Courts are duty-bound to ensure that the fundamental right



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to parenthood, facilitated through the Act, is not thwarted by hyper-technical reasoning .

9.In light of the above, the impugned order is set aside. The matter is remanded to the learned Judicial Magistrate, Uthamapalayam, with a direction to record the sworn statement afresh and dispose of the petition in accordance with law within two weeks from the date of receipt of a copy of this order. The learned Trial Court shall duly take into account the documentary evidence produced by the petitioners, including the death certificate of the surrogate mother's husband and her widow certificate, while considering the petition on merits.

10.Accordingly, this Criminal Revision Case stands allowed. No costs.

05.08.2025

NCC :Yes/No

Index :Yes/No

Internet : Yes

Mrn

Note : Issue order copy on **09.09.2025**.

To

1.The Judicial Magistrate, Uthamapalayam.



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L.VICTORIA GOWRI, J.

Mrn

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