



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.06.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[PD](MD)No.2069 of 2021

and

C.M.P.(MD).No.11023 of 2021

Nagarajan

...Petitioner

Vs.

Gayathri

...Respondent

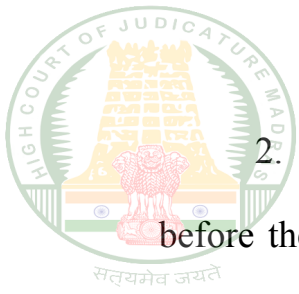
PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to strike off the case in H.M.O.P.No.104 of 2019 on the file of the Principal Sub Court, Dindigul.

For Petitioner : Mr.K.R.Manimaran

For Respondent : No Appearance

ORDER

This petition has been filed seeking orders to strike off the case in H.M.O.P.No.104 of 2019 on the file of the Principal Sub Court, Dindigul.



2. The respondent herein filed a petition in H.M.O.P.No.104 of 2019 before the learned Principal Subordinate Judge, Dindigul under the provisions of the Hindu Marriage Act, 1955 seeking the relief of restitution of conjugal rights against the petitioner herein.

2. Though the name of the respondent has been printed in the cause list, there is no representation on behalf of the respondent either in person or through counsel.

3. The learned counsel appearing for the petitioner would submit that the alleged marriage between the petitioner and the respondent was stated to have been solemnized on 27.07.2018 at Sri Gnana Mutheeswarar Mutharamman Temple, Kulasekarapattinam, before the elders as per the Hindu rites and customs. It is the specific case of the petitioner that the said marriage did not take place and the same has been falsely claimed by the respondent.

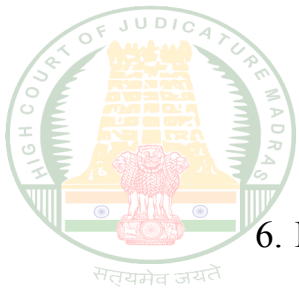
3.(i). The learned counsel would further submit that the petitioner and respondent became friends through Facebook, and the respondent introduced herself as a deserted woman with two children, suffering without financial support. She sought help from the petitioner for employment. Considering her request, the petitioner arranged a job for the respondent at V.V. Traders, Tirunelveli. However, the respondent was later terminated from service after



allegedly committing theft at her workplace. Thereafter, the respondent approached the petitioner again and demanded a sum of Rs.3,00,000/-. The petitioner gave the said amount to her. When the petitioner sought repayment, the respondent allegedly threatened him, claiming falsely that he was her husband and further threatened him with dire consequences with the help of three other persons. Subsequently, the respondent filed H.M.O.P.No.104 of 2019 before the trial Court seeking restitution of conjugal rights.

4. The petitioner, then, filed a complaint under Section 156(3) Cr.P.C. before the learned Judicial Magistrate No.II, Dindigul in CrI.M.P.No.6771 of 2019. The learned Magistrate directed the Police to conduct a preliminary enquiry and file a report. Based on the direction, the Police conducted an enquiry and submitted a report dated 10.03.2021 before the trial Court, wherein it was categorically stated that no marriage had taken place between the petitioner and the respondent. Further, the Executive Officer of Sri Mutharamman Temple, Kulasekarapattinam, also issued a certificate stating that no marriage had been conducted on 27.07.2018 as alleged by the respondent.

5. It is also submitted that the respondent was already married to one Mohan and has not obtained any decree of dissolution of her marriage under Section 13(1) of the Hindu Marriage Act, 1955. Therefore, the alleged marriage between the petitioner and the respondent is void as per the provisions of Section 11 read with Section 5(i) of the Hindu Marriage Act, 1955.



6. For maintaining a petition under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights, the existence of a valid marriage is a *sine qua non*. The respondent has neither pleaded nor proved the existence of a valid and subsisting marriage in accordance with the provisions of the Act. In the absence of such foundational proof, the continuation of the proceedings in H.M.O.P.No.104 of 2019 amounts to an abuse of process of law.

7. In view of the above facts and circumstances, and taking note of the report of the Police and the certificate issued by the Temple Authority, this Court is of the considered opinion that the petition in H.M.O.P.No.104 of 2019 is not maintainable.

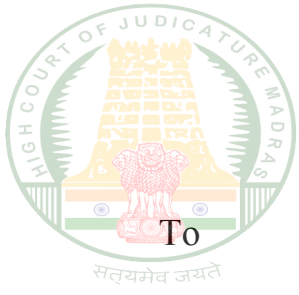
8. Accordingly, this Civil Revision Petition is allowed. The proceedings in H.M.O.P.No.104 of 2019 on the file of the learned Principal Subordinate Judge, Dindigul, is hereby quashed. No costs. Consequently, connected miscellaneous petition is closed.

24.06.2025

Internet: Yes/No

Index: Yes/No

TSG



- 1.The Principal Sub Court, Dindigul.
2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

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