
(1970) 05 MAD CK 0001
In the Madras High Court

Ellammal		APPELLANT
	Vs	
Veeraswamy Alias Lalgudiar		RESPONDENT

Date of Decision : 30-05-1970

Acts Referred:

Citation : (1975) CriLJ 28

Hon'ble Judges : Krishnaswamy Reddy, J

Bench : Single Bench

Judgement

Krishnaswamy Reddy, J.—This revision petition has been filed by the wife against the order of the learned Additional First Class

Magistrate, Kulithalai, declining to grant maintenance to her on the ground that she was not the wife. It may, say, at the outset itself, that the order

of the learned Additional First Class Magistrate is not only absurd but also perverse. It appears that he has not read the provisions of the Indian

Evidence Act to know the significance of an admission made by a party. Evidence was let in that in a prior suit for maintenance filed by the revision

petitioner, the respondent filed a written statement that he married the petitioner 15 years ago and that she was the wife. It is, undoubtedly, an

admission made against his own interests and a relevant one in the circumstances of the case as the suit is for maintenance by the petitioner as the

wife of the respondent. This admission has been ignored totally by the learned Additional First Class Magistrate. On this aspect, he has observed

as follows:

No doubt, P.W. 1 described herself as the wife in a sale deed in which the respondent has attested and in his counter in a previous suit, the

respondent mentioned that P.W. 1 was married to her. Now he resiles from the

statement.

2. It is, of course, quite natural for a person who is proceeded against for maintenance to deny the previous admissions and it is for the court to

ascertain or get an explanation from him as to why he has made such admissions and as to why he resiles from them. As already pointed out by

me, his admission cannot be taken to be a stray one as one made in certain unconnected proceedings, but this admission was made in a matter

where the wife is claiming maintenance in a suit on the ground that the respondent was the husband. This admission has got a direct bearing on the

question of the status of the petitioner as the wife of the respondent. This one circumstance would be enough to hold that the petitioner is the wife

of the respondent. Even besides this, P. Ws. 2 and 3 who are local villagers, who were examined as witnesses to speak about the marriage, have

deposed to the effect that the petitioner and the respondent lived together as husband and wife. The learned Additional First Class Magistrate has

simply brushed aside their evidence by saying that their evidence is not satisfactory. He, however, holds that the respondent was living with the

petitioner as her husband till he married again.

3. While there is an admission in a similar proceeding, there is no necessity, at all, to call for proof. Whenever admissions are made by parties

against their own interest, the matters relating to these admissions do not require proof. I am quite satisfied from the evidence and the admission

made by the respondent in a prior maintenance proceedings that the petitioner was the wife of the respondent. So far as the quantum is concerned,

the respondent submits that he has no means to pay and that he has no properties. It is true that he is an old man and it is stated that the present

wife is the fourth wife. He has got means to engage counsel both in the lower Court and here also. Today the respondent has come with an

advocate from the local bar. He must have had sufficient means to pay and meet the litigation expenses. I am, therefore, of the view that the

respondent has got the necessary means to pay. In the circumstances of the case and taking into consideration that the couple are old, I direct the

respondent to pay Rs. 20/- every month as maintenance from this date. Hence this revision case is allowed.