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W.P.No.6195 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 26.02.2025	Delivered on 20.03.2025
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CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN

Writ Petition No.6195 of 2025

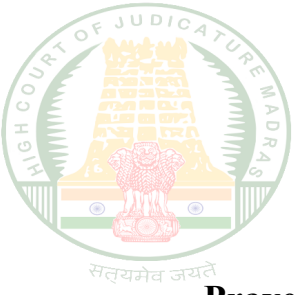
B. Kavitha

.. Petitioner

Vs.

1. The Registrar General,
Madras High Court,
Madras.
2. The Principal District Judge,
The Principal District Court,
Thiruvarur District.
3. The District Munsif cum Judicial Magistrate,
The District Munsif cum Judicial Court,
Kodavasal, Thiruvarur District.
4. The Chief Administrative Officer,
The Principal District Court,
Thiruvarur District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in D.No.600, dated 07.11.2024 on the file of the respondent No.3 and quash the same as illegal and consequently to direct the respondents to provide Maternity Leave to the petitioner who is working as OA before the third respondent within the time stipulated.

For Petitioner : Mr.K.Shivakumar

For Respondents : Ms.N.K.Kanthimathi

ORDER

(Order of the Court was delivered by R.SUBRAMANIAN, J.)

Challenge in this Writ Petition is to the proceedings of the learned District Munsif cum Judicial Magistrate, Kodavasal dated 07.11.2024, wherein the application for maternity leave of the petitioner was rejected.

2. The petitioner, who was working as an Office Assistant in the said Court, lost her husband on 28.01.2020. Thereafter, she fell in love with one Bharathi S/o. Tamilmaran, and they got married on 28.04.2024. She



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conceived and she applied for Maternity Leave on 18.10.2024. The same was rejected on the ground that she has not produced a Marriage Certificate.

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3. Mr.Shivakumar, learned counsel appearing for the petitioner would contend that the marriage was solemnized in a Temple as the petitioner was a young widow and therefore, the same could not be registered. The photographs of the marriage and the invitation were also filed. A complaint lodged by her claiming that the said Bharathi had cheated her on the promise of marriage was also relied upon.

4. The learned District Munsif cum Judicial Magistrate, in the order impugned in the Writ Petition had returned the application for maternity leave basically on three grounds. The first one is that the marriage was not registered, the second is that the FIR lodged cannot be treated as proof of marriage and the third the pregnancy appears to be prior to the marriage. Reliance has been placed by the learned District Munsif cum Judicial Magistrate, on G.O.(Ms) No.84 which increases the period of maternity leave from 9 months to 12 months was also relied upon to contend that maternity leave is admissible only to married woman and not to others.



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Pursuant to the Writ Petition, the Principal District Judge, Thiruvarur, has filed a Report. Though the learned counsel appearing for the respondents would attempt to justify the order, we find ourselves unable to support the reasonings in the order impugned in the Writ Petition.

5. No doubt, Maternity Leave is granted to married woman. A marriage need not be compulsorily registered. The employer cannot seek proof beyond doubt for the factum of marriage unless it is disputed. In the case on hand, the petitioner had lodged a complaint on 14.03.2024 accusing her husband T.Bharathi, of having a relationship with her on the promise of marriage which resulted in her conceiving a child. An FIR has also been registered and it is also seen that the said Bharathi had taken an Anticipatory Bail. Subsequent there to at the instance of elders and well-wishers, the said Bharathi had married the petitioner at a Temple. Photographs of the marriage along with relatives as well as the wedding invitation have been produced.

6. In the absence of any other material, the learned District Munsif cum Judicial Magistrate should have acted upon the said material. Sadly,



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the learned District Munsif cum Judicial Magistrate, has even gone to the extent of doubting the factum of pregnancy on the ground that marriage appears to have been after the pregnancy. It is the specific case of the petitioner that she conceived when her husband Bharathi had a relationship with her on a promise of marriage. Therefore, the petitioner should not have been denied maternity leave on the said ground. No one else had disputed the marriage.

7. When *prima facie* evidence is available, the learned Magistrate, in our considered opinion, erred grievously in rejecting the application for maternity leave on assumptions and surmises. The action of the learned District Munsif cum Judicial Magistrate, to say the least is inhuman. In the days were even live in relationships are recognized by the Hon'ble Supreme Court, the learned District Munsif cum Judicial Magistrate, Kodavasal, appears to have taken archaic view of the matter and has fished fir and found out reasons for rejection of the application of the petitioner. This, in our opinion, is wholly unwarranted.

8. The reliance placed on G.O.(Ms) No.84 is also ill conceived.



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The effect of the said G.O. is only to increase the number of days of maternity leave from 270 days to 365 days. It is the Fundamental Rules which governed grant maternity leave. No doubt, maternity leave can be availed of by a married woman only, but the employer is not expected to seek proof beyond doubt of the factum of marriage. The sequence of events viz. the FIR filed in March 2024 and the fact that the petitioner married Bharathi in April 2024 would show that the case of the petitioner that she conceived and thereafter got married to Bharathi is probable and there is nothing to disbelieve the said statement. Unfortunately, the learned Principal District Judge has also followed the footsteps of the learned District Munsif cum Judicial Magistrate, and filed a report stating that there are questions about legitimacy of the claim for maternity leave. We are unable to appreciate the mindset of the employer particularly in this case the Judicial Officers. It is high time, the Judicial Officers reform themselves and take pragmatic view of things.

9. We therefore set aside the order returning the application for maternity leave and we direct the Principal District Judge, Thiruvarur, to grant the maternity leave as per the entitlement of the petitioner, any leave



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taken by the petitioner from the date of her application for grant of maternity leave will be treated as maternity leave and she will be paid the full salary for the said period.

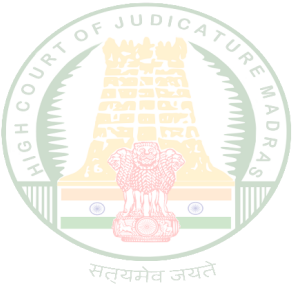
10. We also find that this is a fit case where the petitioner should be compensated for the mental agony suffered by her due to the unjust return of her application. We therefore direct the Registrar General, the first respondent to pay a cost of Rs.1,00,000/- to the petitioner. A cost shall be paid within a period of four weeks from today.

11. Post for compliance after four weeks.

(R.SUBRAMANIAN, J.) (G. ARUL MURUGAN, J.)
20.03.2025

jv

Note: We direct the Registry to circulate a copy of this order to all the Principal District Judges with a direction to them to forward the same to all the Judicial Officers so that such cruel orders are not passed by the Judicial Officers in future.



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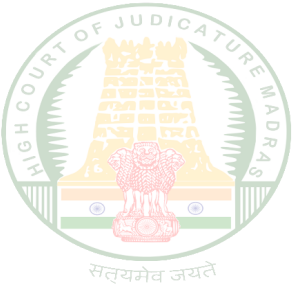
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Index: Yes/No
Speaking order/Non Speaking order
Neutral Citation: Yes/No

Note: Issue order copy today

To

1. The Registrar General,
Madras High Court,
Madras.
2. The Principal District Judge,
The Principal District Court,
Thiruvarur District.
3. The District Munsif cum Judicial Magistrate,
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R.SUBRAMANIAN, J.
and
G. ARUL MURUGAN, J.

(jv)

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