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C.R.P.(MD)No.558 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P.(MD)No.558 of 2023

and

C.M.P.(MD)No.2626 of 2023

1.Muthusamy
2.Eswari
3.Pooranam @ Sathiya
4.Vijalakshmi
5.Kalaiselvi

.. Petitioners

Versus

1.Rajagenkeshkumar
2.Chitradevi

.. Respondents

Prayer :- Petition filed under Article 227 of the Constitution of India, to strike off the petitioners' names relating to the complaint in D.V.O.P.No.17 of 2022, on the file of the Additional Mahila Court (Magistrate Level), Ramanathapuram, quash the same and consequently, allow the Civil Revision Petition in respect of the petitioners herein.

For Petitioners : Mr.R.Karunanidhi

For Respondents : No Appearance

ORDER

The petitioners are father-in-law, mother-in-law, and three sister-in-laws of the second respondent herein.



2.Despite service of notice on the respondents in this Civil Revision Petition and their names being printed in the cause list, there is no representation on behalf of the respondents.

3.This Civil Revision Petition has been filed to strike off the names of the petitioners in D.V.O.P.No.17 of 2022, pending on the file of the Additional Mahila Court [Magistrate Level], Ramanathapuram, under the provisions of the Protection of Women from Domestic Violence Act, 2005.

4.The petitioners are the residents of Ramanathapuram. The respondents are the husband and wife. D.V.O.P.No.17 of 2022 has been filed by the second respondent against the first respondent and the petitioners herein. The petitioners herein are the in-laws of the second respondent and father, mother and sisters of the first respondent.

5.The learned counsel for the petitioners submits that soon after the marriage, the second respondent was transferred to Mumbai and was working there and she chose not to live in Tamil Nadu. He further submits that the petitioners and the respondents are not living together in a shared household. Therefore, the ingredients of domestic violence are wholly absent in this case and vague allegations are made in the complaint by the second respondent against the petitioners. He also submits that



the complaint does not disclose any specific instance of domestic violence against the petitioners. In the absence of any concrete proof relating to domestic violence, the complaint is in fact designed only to harass the petitioners. If the complaint is allowed to be proceeded, it would obviously result in abuse of process of law.

6.I have heard the learned counsel for the petitioners and perused the materials available on record.

7.The specific allegations of the second respondent against the petitioners in the above D.V.O.P. are as follows:-

"7.மேற்படி மனுதாரரை 1ம் எதிர்மனுதார் அழகில்லை என்றும், எனக்கேற்ற பெண் இல்லையென்றும், எனக்கு போதுமான வரதட்சணை கொடுக்கவில்லை என்று சொல்லி புறக்கணித்து வந்தார். மேற்படி மனுதாரின் பெற்றோர்கள் அந்த பெண்ணை மறந்து எனது மகளை வாழ வையுங்கள் என்று 1ம் எதிர்மனுதாரிடமும், அவரது குடும்பத்தார்களிடம் கூறியதற்கு, உங்கள் பெண்ணை வாழ வைக்க வேண்டும் என்றால் கூடுதலாக ரூ. 30,00,000-இலட்சம் கொடுங்கள் என்று உறவினர்களிடம் சொல்லி அனுப்பினார்கள். நான் கேட்ட தொகையை கொடுக்கவில்லை என்றால் வாழ வைக்க மாட்டேன் என கொடுமைப்படுத்தி வந்தார். மேற்படி மனுதார் 1ம் எதிர்மனுதாரின் வீட்டிற்கு சென்று என்னை வாழ வையுங்கள் என்றும், 2, 3 எதிர்மனுதார்களிடம் உங்கள் பிள்ளையை திருந்தி வாழ சொல்லுங்கள் என்று கூறியபோது மேற்படி 2 முதல் 6 எதிர்மனுதார்கள் இந்த உலகத்தில் யார்தான் வப்பாட்டி வைக்கவில்லை. அதையெல்லாம் கண்டு காணாமல் இருந்து கொள் என அறிவுரை கூறினார்கள். மனுதார் என்ன இப்படி பேசுகிறீர்கள் எந்த பெண் தன்னுடைய வாழ்க்கையை விட்டுக்கொடுப்பா, நீங்களே உங்கள் மகனுக்கு ஆதரவாக பேசுகிறீர்கள் என்று



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கேட்டதற்கு 1ம் எதிர்மனுதாரர் மனுதாரை அடித்தும், மற்ற எதிர்மனுதார்கள் 1ம் எதிர்மனுதாருடன் சேர்ந்து கொண்டு மனுதாரரை அசிங்கமாக பேசி அடித்து, வீட்டைவிட்டு வெளியேற்றிவிட்டனர்."

8.The first respondent has also filed H.M.O.P.No.81 of 2022 for restitution of conjugal rights under Section 9 of the Hindu Marriage Act before the Sub Court, Muthukulathur and the same is pending for further adjudication.

9.Dealing with an identical situation, this Court in **Santineer Vincent Rajkumar and another vs. R.Rejitha** reported in **2017 (5) CTC 515**, has quashed the proceedings pending against the petitioners therein in S.T.C.No.10791 of 2013, on the file of the Judicial Magistrate Court, Alandur, after following the decision of the Hon'ble Supreme Court in **Preeti Gupta and another vs. State of Jharkhand and another** reported in **2010 (7) SCC 667**, wherein at Paragraph 35, it has been held by the Hon'ble Supreme Court, as under:-

"35.The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinised with great care and circumspection."



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10.The facts of the aforesaid case are quite similar to the facts of the present case. It is clear that the proceedings under the Protection of Women from Domestic Violence Act, 2005 has been used as a tool to oppress the in-laws of the second respondent. Consequently, the prayer is made out in this Civil Revision Petition for striking out the names of the petitioners from D.V.O.P.No.17 of 2022, on the file of the Additional Mahila Court [Magistrate Level], Ramanathapuram.

11.In view of the above, the names of the petitioners in D.V.O.P.No.17 of 2022, on the file of the Additional Mahila Court [Magistrate Level], Ramanathapuram, is struck down. This Civil Revision Petition stands allowed accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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06.06.2023

To

The Judge,
Additional Mahila Court (Magistrate Level),
Ramanathapuram.



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C.SARAVANAN, J.

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Order made in
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