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C.R.P.No.1128 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2025

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.1128 of 2022

1.S.Saravanan
2.S.Sundari
3.S.Ravishankar
4.Dhanalakshmi .. Petitioners

Versus

1.Sathya
2.Abinaya .. Respondents

Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India to call for the records relating to the impugned proceedings made in D.V.C.No.9 of 2016 dated 01.08.2016 on the file of the learned Judicial Magistrate No.II, Mannargudi, Thiruvavarur District and quash the same.

For Petitioners : Mr.B.Ramprabu

For Respondents : Mr.Swamy Subramanian

ORDER

This civil revision petition challenges the taking on file of DVC.No.9 of 2016 on the file of the learned Judicial Magistrate-II, Mannargudi.

2. I heard Mr.B.Ramprabu for the civil revision petitioners and Mr.Swamy Subramanian for the respondents.



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3. The first civil revision petitioner is the husband of the first respondent and the father of the second respondent. The second civil revision petitioner is the first petitioner's mother and the mother-in-law of the first respondent and the grand mother of the second respondent. The third civil revision petitioner is the brother of the first petitioner and the brother-in-law of the first respondent. The fourth petitioner is the wife of the third petitioner.

4. The first petitioner and the first respondent entered into matrimony on 14.09.2003. From the wedlock, the second respondent was born. Due to disputes and differences, the first petitioner and the first respondent separated. The second respondent is under the care and custody of the first respondent. On account of separation, the respondents are residing with the first respondent's father. In and about the year 2016, the first respondent came to know that the first petitioner had entered into matrimony with one Rashiya Begum. This constrained her to initiate proceedings invoking the provisions of Protection of Women from Domestic Violence Act, 2005. She had sought for the following reliefs:

“எதிர்மனுதாரரை வரவழைத்து விசாரித்து கீழ்க்கண்ட பரிகாரங்களை அளித்து உத்தரவாக மனுதாரர் மன்றத்தை பணிந்து வேண்டுகிறார். பிரிவு 18ன் கீழ் எதிர்மனுதாரர்கள் ஒன்று முதல் நான்கு வரை உள்ளவர்கள் எதிர்மனுதாரருடைய சொத்தை வேறு யாரு பெயருக்கோ கிரயம் என்கிற



பெயரிலோ, வேறு எவ்வகையிலோ எழுதி வைக்கவோ, எவ்வில்லங்கத்திற்கும் உட்படுத்த கூடாது என்றும், மனுதாரருக்கு பிரிவு 18ன் கீழ் பாதுகாப்பு உத்தரவு வழங்கியும்,

2. மனுதாரர்களுக்கு தனியே வசிப்பதற்கு போதுமான வசதியுள்ள தகுந்த வாடகை வீட்டிற்குரிய வாடகையும் மற்றும் எதிர்மனுதாரர் வசமுள்ள சீதன பொருட்களையும் மனுதாரருக்கு திரும்ப வழங்கவும், பிரிவு 19ன் கீழ் உத்தரவு பிறப்பிக்குமாறும்,

3. இரண்டாம் மனுதாரரின் கல்வி செலவு இன்னும் சிறிது காலத்தில் அவருடைய எதிர்காலத்தில் ஏற்படக்கூடிய வயதுக்குரிய நிலை, படிப்பு நிலை, திருமண நிலை இவற்றை கருத்தில் கொண்டும், மேலும் எவ்வித பொருளாதார வசதியுமின்றி வாழ வழியுமின்றி கஷ்ட ஜீவனம் செய்கின்ற தன்னுடைய அத்தியாவாசிய தேவைகளை நிரைவேற்ற இயலாத மனுதாரர் ஒன்றுக்கும் சேர்த்து பிரிவு 21ன் கீழ் எதிர்மனுதாலர் தலா ரூ.10,00,000/ (ரூபாய் பத்து லட்சம்) வீதம் ரூ.20,00,000/ (ரூபாய் இருபது லட்சம்) மனுதாரர்களுக்கு பொருளாதார உதவியாக வழங்க வேண்டும்,

4. இளவர் குாந்தை அபிநயா மனுதாரர் ஒன்றின் பொறுப்பில் தான் இருப்பார் என்றும், அந்த சட்ட குறிப்பில் எதிர்மனுதாரர்கள் எவ்வித குறக்கீடுகளும் செய்ய கூடாதென்றும், பிரிவு 21ன் கீழ் உத்தரவு பிறப்பிக்குமாறு மனுதாரர்கள் தரப்பில் மன்றத்தை பணிந்து வேண்டப்படுகிறது.”

5. Challenging the same, the present revision.

6. The learned counsel for the petitioners pleads that the first respondent/wife had deserted the first petitioner as early as in the year 2006 and therefore, the presentation of the domestic violence complaint, after a decade, is baseless. He further urges that there are no specific



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allegations of domestic violence and no explanation has been given by the wife for having approached the Magistrate Court after a decade. He further points out that the third petitioner was not even married the fourth respondent in the year 2006 and this in itself points out that the domestic violence complaint had been presented only in order to wreck vengeance on the petitioners' family.

7. Per contra, Mr.Swamy Subramanian points out that the domestic violence complaint *inter alia* seeks for the maintenance and as the first petitioner is the father of the second respondent, he is duty bound to maintain the wife and child. He draws my attention to specific averments in the petition that the first petitioner has entered into a matrimony with Rashiya Begum and this in itself would constitute domestic violence in terms of Section 3 of the Protection of Women from Domestic Violence Act, 2005. He states that the matrimony between the first petitioner and Rashiya Begum has been arranged by the petitioners 2 to 4 and therefore, they are also answerable for the claims of the respondents.

8. I have carefully considered the arguments of the counsels and have gone through the records.



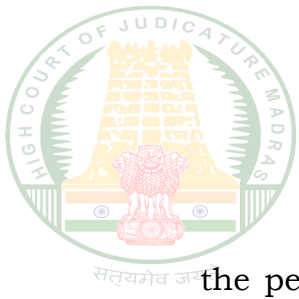
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9. The averment whether the marriage between the first petitioner and one Rashiya Begum has gone through or not is a matter which has to be probed into only at the time of trial. As long as the relationship between the first petitioner and the first respondent is alive, it is not open to him to enter into matrimony with another person.

10. Apart from the marriage getting very crowded with the introduction of a third party, the presence of the second wife in itself would constitute, at the least, an emotional distress to the legally married first wife. Even emotional distress is covered within the meaning of Section 3 of the Domestic Violence Act.

11. There are specific averments as against the second petitioner also. However, as against the third and fourth petitioners, the only averment is that they had facilitated the marriage of the first petitioner with the aforesaid Rashiya Begum. The mere fact that they were present during marriage does not mean that they have played a role in the said marriage. If that were to be the situation, any guest, who attends the wedding too, can be roped into as a respondent in a domestic violence complaint. Hence, I am inclined to consider this petition, insofar as the petitioners 3 and 4 are concerned. The condition precedent that



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the person, who abets the husband in acts of domestic violence, is not satisfied, insofar as the petitioners 3 and 4 are concerned.

12. In the light of the aforesaid reasons, the revision partially succeeds. The domestic violence complaint initiated against the third and fourth petitioners alone stands quashed. It shall proceed as against the first and second petitioners.

13. The second petitioner, being a senior citizen of about 66 years today, her presence before the Magistrate is dispensed with. She shall, however, be represented by a counsel on all hearing dates. She shall be present, when so directed by the Magistrate Court, or when her presence is indispensable. The said benefit will not enure in favour of the first petitioner.

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no

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1.The Judicial Magistrate No.II, Mannargudi, Thiruvarur District

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V.LAKSHMINARAYANAN, J.

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