



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.10.2015

CORAM:

THE HONOURABLE MRS.JUSTICE S.VIMALA

Criminal Revision Case (MD)No.395 of 2015
and
M.P.(MD)No.1 of 2015

1.M.Yuvaraja
2.T.Mani
3.M.Jamunarani
4.M.Sarmila
5.Rajalakshmi

.. Petitioners/Petitioners/Respondent

Vs.

S.Nikhelswarya

.. Respondent/Respondent/Petitioner

Prayer: Revision is filed under Section 397 r/w 401 Cr.P.C. to call for the records pertaining to the impugned order dated 15.04.2015 made in CrI.M.P.No.1022 of 2015 in M.C.No.31 of 2014 on the file of the Judicial Magistrate Court, Nilakottai, Dindigul District and set aside the same.

For Petitioner : Mr.Senthil Ayyanar

For Respondent : Mr.R.Rajaraman

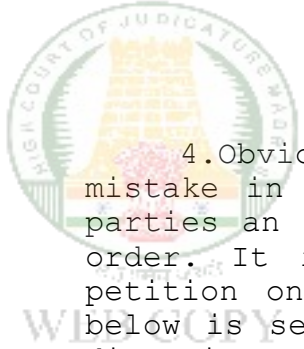
ORDER

The revision petitioners are facing the proceedings under the Domestic Violence Act. The respondent herein has filed M.C.No.31 of 2014 claiming protection, monetary relief and maintenance under the Provisions of Domestic Violence Act.

2.On the date of appearance, it appears that the revision petitioners have filed petition under Section 205 Cr.P.C. In the petition filed under Section 205 Cr.P.C. in Cr.M.P.No.1022 of 2015, the revision petitioners, who are the petitioners in Cr.M.P.No.1022 of 2015 have not described themselves as petitioners, and instead, the description of array of parties had been mentioned, as per the nomenclature in the main petition. Finding fault with that, the Court below has chosen to dismiss the petition under Section 205 Cr.P.C. Challenging the same, this Criminal Revision Petition has been filed.

3. A perusal of the order passed by the Court below would go to show that the only reason for the dismissal of the petition is the mis-description in the array of parties in the cause title. The relevant observation reads as under:-

"The revision petitioners herein, who are the petitioners in this application are described themselves as respondents while they should have been shown as petitioners and for that reason, this application is dismissed."



4. Obviously, when there is a clerical mistake or there is an innocent mistake in the description of parties, the Court should have given the parties an opportunity to correct the mistake and then to have passed an order. It is not expected of the Court to pass orders rejecting the petition on technical ground. Therefore, the order passed by the Court below is set aside and the matter is remanded back to the Court with a direction to the revision petitioners herein to file the petition afresh describing the revision petitioners herein as petitioners and the complainant in M.C.No.31 of 2014 as respondent.

S.VIMALA, J.

5. The Criminal Revision Petition is disposed of accordingly.
Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar (Co)

/True Copy/

Sub Assistant Registrar.(C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

To

The Judicial Magistrate Court, Nilakottai,
Dindigul District.

+1cc to Mr.M.Senthil Ayyanar, Advocate, SR.No. 63200.

Crl.R.C. (MD) No.395 of 2015
and
M.P. (MD) No.1 of 2015

AM/SK.SKN/SAR-II/20.11.2015/2P/3C