

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.09.2021

PRONOUNCED ON : 07.10.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(P.D) No.1926 of 2021

1.A.Raghuraman

2.V.Ayyasamy

3.Bhuvaneswari

..Petitioners

Vs.

1.Brindha

2.A.Sanjeev Kumar

...Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records pertaining to the proceedings in D.V.A.No.162 of 2020 on the file of the Special Magistrate Court for Domestic Violence Cases, Coimbatore and quash the same as against the revision petitioners.

For Petitioners : Ms.S.Pooja Shree

ORDER

This Civil Revision Petition is filed to call for the records in D.V.A.No.162 of 2020, on the file of the Special Magistrate Court for Domestic Violence cases, Coimbatore and quash the same.

2.The learned counsel for the petitioners submitted that the marriage between the first respondent-wife and first petitioner-husband, had taken place on 23.06.2019. Thereafter, the first respondent Brindha lived with her husband A.Raghuraman only for few months and then she left to her parental home. They were not living together. However, the first respondent had filed the petition in D.V.A.No.162 of 2020 only with a view to harass the petitioner-husband and his relatives. The allegations made in D.V.A.No.162 of 2020 are only generalized allegations and those allegations are false allegations raised only for the purpose of filing the case. There is no proof for any of the allegations made in the petition. No specific allegation of Domestic Violence was raised against the petitioners in that petition. The filing of this petition is nothing but an abuse process of law. Therefore, the petition in D.V.A.No.162 of 2020 has to be quashed. In support of his submission, he relied on the following judgments for the

preposition that when there are no specific allegations for domestic violence, their proceedings cannot be maintained and liable to be quashed”.

(i) 2007 Cri LJ 3361 (Mohammed Maqeenuddin Ahamed Vs. State of Andhra Pradesh), wherein it is held as follows:

7. no specific allegations were made against the respondents 2 to 11 /petitioners 2 to 11 herein except mentioning that at their instance, the first petitioner was demanding money and that he was not providing money for medical expenses and disowned the liability being abetted by petitioners 2 to 10. Since no relief is claimed against petitioners 2 to 11, it is unnecessary to continue the proceedings against them and continuation of the proceedings against them amounts to abuse of process of law. Therefore, I am inclined to quash the proceedings against the petitioners 2 to 11.

(ii) This court judgment in CrI.O.P.No.31983 of 2013 (Santhannalakshmi Vs. R.Janani), wherein it is held as follows:

9.As far as the petitioners 3 to 7 are concerned there are no specific allegations raised against them. The allegations made against them are very general in nature to the effect that the respondent was harassed and tortured by them in the matrimonial house. As a matter of fact,.... has not

raised any specific allegations regarding specific overt act constituting an act of demand for dowry and an act of harassment against the grand father. That being so, no criminal 7 prosecution can be allowed to go on for such bald allegation against the grand father, who was aged about 74 years at the time of occurrence.

10.Regarding the allegations raised against the mother-in-law is concerned, it is stated in paras 2, 3 and 4 of the complaint that the mother-in-law always used to scold her to comply with the demand made by the husband. It is further stated in para 5 of the complaint that the husband came to the parents house along with the motherin-law and the grand father and demanded her to transfer the house. As rightly pointed out by the learned counsel for the petitioners, such allegations are very general and vague in nature and do not constitute any act tantamounting to Domestic Violence Act insofar as the petitioners herein are concerned.

11.

12. The reading of the allegations raised in the complaint on the whole would only disclose that the complainant has while charging her husband with serious and specific allegations chosen to introduce bald and vague allegations without attributing any specific overt act against all his family members including that of the old grand

parent. In the absence of any specific allegations against the petitioners which do make out prima facie case against them, no criminal proceedings can be allowed to go on against them and the same would amount to abuse of process and would cause serious prejudice to the petitioners 9 herein. As such, this Court is of the considered view that this is a fit case wherein the proceedings against the petitioners/A2 to A7 is in the interest of justice liable to be quashed."

He has also relied on the order in **Crl.O.P.No.29476 of 2017 (N.Prasad Vs. Harithalakshmi)** for the preposition that when the complaint was not filed within a period of one year from the date of domestic violence, the complaint is barred. The relevant portion reads as follows:

6. In this regard, it is relevant to cite the order dated 04.04.2019 passed by this Court in Crl.O.P.No.11087 of 2017, in the case of V.Nagarajan and ors Vs. B.P.Thangaveni, which reads as follows:

6. In this regard the learned counsel appearing for the petitioners relied upon the judgment reported in 2012 Crl.L.J.309 in the case of Inderjit Singh Grewal Vs. Sate of Punjab & Anr., which reads as follows:

24. Submissions made by Shri Ranjit Kumar on the issue of limitation, in view of the

provisions of Section 468 Code of Criminal Procedure, that the complaint could be filed only within a period of one year from the date of the incident seem to be preponderous in view of the provisions of Sections 28 and 32 of the Act 2005 read with Rule 15(6) of The Protection of Women from Domestic Violence Rules, 2006 which make the provisions of Code of Criminal Procedure applicable and stand fortified by the judgments of this Court in Japani Sahoo v. Chandra Sekhar Mohanty AIR 2007 SC 2762; and Noida Entrepreneurs Association v. Noida and Ors. (2011) 6 SCC 508.

25. In view of the above, we are of the considered opinion that permitting the Magistrate to proceed further with the complaint under the provisions of the Act 2005 is not compatible and in consonance with the decree of divorce which still subsists and thus, the process amounts to abuse of the process of the court. Undoubtedly, for quashing a complaint, the court has to take its contents on its face value and in case the same discloses an offence, the court generally does not interfere with the same. However, in the backdrop of the factual

matrix of this case, permitting the court to proceed with the complaint would be travesty of justice. Thus, interest of justice warrants quashing of the same.

The Hon'ble Supreme Court of India held that under Sections 28 and 32 of the Act 2005 r/w Rule 15(6) of the Protection of Women from Domestic Violence Rules, 2006 which make the provisions of the Code of Criminal Procedure applicable. Accordingly, the respondent ought to have been lodged complaint within a period of one year from the date of incident.

7. *In the light of the above discussion, this Court is of the considered opinion that the complaint lodged by the respondent under the Domestic Violence Act cannot be sustained as against the petitioner. Accordingly, this Criminal Original Petition allowed and the entire proceeding in D.V.C.No.186 of 2017 on the file of the Mahila Court (Magisterial Level), Allikulam, Chennai, is hereby quashed. Consequently, connected miscellaneous petitions are closed.*

3.Considered the submission of the learned counsel for the petitioners and perused the records.

4.A copy of the petition filed in D.V.A.No.162 of 2020, is filed for the perusal of this court. The reading of this petition shows that the marriage between the petitioner A.Raghuraman and respondent Brindha was solemnized on 23.06.2019. It is alleged that as per the demand made by the husband and his family members five sovereigns gold chain with $\frac{1}{4}$ sovereign diamond dolor, one sovereigns ring and four sovereign Thandai Kappu were presented to the husband. Apart from making these presentations to the husband, wife's parents gifted 350 sovereigns of gold jewels as dowry, 50 sovereigns, $8\frac{1}{2}$ sovereign watch, $5\frac{3}{4}$ sovereign bracelet to the husband and 10kg silver, Audi A3 car, dowry of Rs.21,00,000/-, Rs.2,00,000/- towards Thali Chain. These jewelleries and other articles had been taken by the husband and his parents as seers to the matrimonial home at Annai Indira Nagar. However, the wife was ill-treated, harassed, threatened and mercilessly beaten, abused physically and mentally, compelled, threatened to act below dignity by her husband and his family members. The husband's father behaved like a barbarized person and used to slap her when he was drunk. Her husband's mother was abusing her

and her parents in filthy language. They alleged that she is a fat dark girl and her husband is young and handsome like cine star Ajith Kumar. They also said that they have taken the bride from a third rated family, who does not have any social status and compared her with the body structure of other ladies. Her husband degraded and humiliated her in front of his relatives. They started demanding huge sum of Rs.64,00,000/- from her parents for running business. After receiving the sum they evaded to transfer the shares. The respondent-wife got conceived. Her husband refused to take her to hospital. She visited the Dr.Renukadevi at KMCH Coimbatore, for medical checkup on 03.01.2020 and was informed about the existence of one kidney only to the fetus. It was informed to her husband and she asked him to take her to Madi Scan Center, Madras. He refused to take her to Chennai. Subsequently, the fetus got aborted. She has been living with her parent's home from 23.10.2019. On these allegations, she filed this petition in D.V.A.No.162 of 2020 claiming relief's under Section 12 of the Protection of Women From Domestic Violence Act, 2005 (43 of 2005) R/W Section 200 of Cr.P.C.

5.This court, finds from the allegations made in the petition filed in D.V.A.No.162 of 2020 that, there are sufficient allegations made for prosecuting her husband and parents under Section 12 of the Protection of Women From Domestic Violence Act, 2005 (43 of 2005). The case can be quashed only even after taking the allegations in the petition as correct, there is no case made out against the petitioners. That is not the case here. There are sufficient allegations made against the petitioners for proceeding under Domestic Violence Act. This court cannot now consider the truth or falsity of the allegations made in the petition. It is for the Trial Court to consider the truth or falsity of the allegations in the trial. On considering the materials produced before the Court as of now, there are sufficient materials available to proceed against the petitioners for committing domestic violence against the first respondent-wife Brindha.

6.As the question of limitation is concerned, this court finds that the petition filed in D.V.A.No.162 of 2020 was filed within a period of one year from the last date of domestic violence on 03.01.2020. Therefore, this court finds that the petition in D.V.A.No.162 of 2020 was filed in time.

7.In this view of the matter, this Civil Revision Petition is dismissed. No costs. However, the personal appearance of petitioners 2 and 3, considering the fact that they are senior citizens, is dispensed with and they may engage an Advocate to appear on their behalf. Their Advocate should appear before the Trial Court on hearing dates and should co-operate in conducting the proceedings.

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07.10.2021

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

1. The Special Magistrate Court,
Domestic Violence Cases,
Coimbatore
2. The Section Officer,
VR Section,
High Court of Madras.

C.R.P.(P.D).No.1926 of 2021

G.CHANDRASEKHARAN.J,

Ep



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