

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.(PD) No.1418 of 2021

and

C.M.P.No.11070 of 2021

N.Rajkumar

... Petitioner / Respondent

Vs

Anthony Fathima @ Leona

... Respondent / Petitioner

Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the Notice dated 02.03.2021 passed in D.V.C.No.13 of 2021 on the file of the Learned XXII Metropolitan Magistrate, Saidapet, Chennai, taking on file a complaint filed under Sections 18, 19 and 20 of the Protection of Women from Domestic Violence Act, 2005.

For Petitioner .. Mr.M.Boopathy

For Respondent .. No Appearance

**ORDER**

This revision petition has been filed seeking to set aside the notice dated 02.03.2021 directed in D.V.C.No.13 of 2021 now pending on the file of the XXIII Metropolitan Magistrate, Saidapet, Chennai.

2.The revision petitioner is the husband. There has been a long winding adversial litigation between the revision petitioner and the respondent. There was filing of I.D.O.P.No.2571 of 2016 by the revision petitioner. Thereafter, the respondent filed I.A.No.272 of 2017 seeking interim maintenance. Questioning the order passed in that particular Interlocutory Application, CRP.(PD).No.458 of 2018 was also filed.

3.In the meanwhile for good measure the respondent had given a complaint to the Protection Officer as envisaged under the Protection of Women from Domestic Violence Act, 2005. A statement was also given to the police by the respondent. Thereafter, M.C.No.407 of 2017 was also filed by the respondent.

4.The revision petitioner had been served with a notice to appear before the XXIII Metropolitan Magistrate, Saidapet, Chennai, with respect to D.V.C.No.13 of 2021.

5.It is stated by Mr.M.Boopathy, learned counsel for the revision petitioner that the petitioner did not respond to the notice and thereafter

a further date was given. It is the grievance of the learned counsel that the relief which the respondent seeks has already been granted by the revision petitioner through compliance of various judicial orders passed. It is stated that maintenance is being paid. It is also stated that jewellery and other items had been returned. But however, the respondent appears to have taken advantage of the provisions under the Protection of Women from Domestic Violence Act, 2005 and has laid a petition in D.V.C.No.13 of 2021 before the XXIII Metropolitan Magistrate Court, Saidapet, Chennai.

6.Quite apart from stating that the revision petitioner had paid maintenance and had returned the jewels no other aspects are pointed out by Mr.M.Boopathy, learned counsel for the revision petitioner to interfere with the pendency of D.V.C.No.13 of 2021.

7.The payment of maintenance and return of jewellery are issues on fact and I would rather leave it to the wisdom of the learned XXIII Metropolitan Magistrate, Saidapet. Chennai, to examine these facts and I would also give a liberty to the revision petitioner herein to approach the learned Magistrate and file necessary petition or a counter to D.V.C.No.13 of 2021 and point out that the relief sought by the respondent had actually been complied with and satisfied by the revision petitioner.

8.I am confident that a considered judicial order would be passed if the facts are properly presented by the revision petitioner herein. The learned XXIII Metropolitan Magistrate, Saidapet. Chennai, may examine the rival contentions of both sides and pass orders with respect to the contentions raised.

9.With the above observation and liberty, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

26.07.2021

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Index : Yes / No

Internet : Yes / No

Speaking order : Yes / No

To:-

The XXIII Metropolitan Magistrate, Saidapet, Chennai.

**C.V.KARTHIKEYAN,J.**

smv

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