

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.09.2021

CORAM

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

CRP. (PD) No.2101 of 2021

and C.M.P.No.15978 of 2021

1.Chandra

2.Sampath

... Petitioners

Vs.

1.B.S.Sindhuja

2. S.Rajkannan

... Respondents

Civil Revision Petition is filed under Article 227 Constitution of India to call for the records relating to the D.V.C.No.10 of 2021 pending on the file of the learned District Munsif Cum Judicial Magistrate Court, Thandarampattu and quash the same.

For Petitioners : Mr. V.S.Senthilkumar

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O R D E R

This petition is filed to quash the proceedings against D.V.C.No.10 of 2021 pending on the file of the learned District Munsif Cum Judicial Magistrate Court, Thandarampattu and quash the same.

2. The learned counsel for the petitioner submitted that the 1st respondent had been residing at No.143, MIG, Thamarai Nagar, Tiruvannamalai. He also produced a copies of the communication received from District Social Welfare Officer, Tiruvannamalai, dated 11.06.2021. A complaint was filed by the 1st respondent to the District Additional Superintendent of Police, Thiruvannamalai, dated 13.07.2021. He further submitted that just before filing the complaint before the Social Welfare Officer, the 1st respondent got a certificate from the Village Administrative Officer to show that she was residing within the jurisdiction of the Thandarampattu and that complaint was forwarded to the District Munsif Court, Thandarampattu. The learned trial Judge is insisting upon the appearance of the petitioner on every hearing. In fact on the complaint given by the 1st respondent, enquiry was conducted in the police station and settlement was also reached. Subsequently, the 1st respondent without going ahead with the settlement, filed this complaint. Therefore, the complaint has to be quashed.

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3.Considered the submission made by the learned counsel for the petitioner and also perused the materials available on record.

4. A reading of the complaint reveals that there are several allegations made against the petitioner to give complaint under the protection of Women from Domestic Violence Act 2005. The truth or falsity of the allegations in the complaint cannot be investigated now and it is a matter for trial. Section 27(a) of DV Act provides for jurisdiction of the Court to the aggrieved persons, who permanently or temporarily resides or carries on business or is employed within the jurisdiction of that Court. Therefore, the filing of the complaint before the District Munsif cum Judicial Magistrate Court based on the Village Administrative Officer residence certificate cannot be considered as an illegal Act. However, if the petitioners are able to make out a case before the learned trial Judge that the 1st respondent had filed a complaint before the particular Court for particular reason, it has to be decided by the trial Court and the complaint cannot be allowed to stand. In such view of the matter this Court is of the considered view that the prayer for quashing the proceedings in D.V.C.No.10 of 2021 cannot be allowed.

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5. The learned counsel for the petitioners submitted that the learned trial judge is insisting for the personal appearance on each and every hearing. Considering the facts and the dispute that the petitioners are not an accused in the eye of law, the personal appearance on each and every date of hearing is

G.CHANDRASEKHARAN. J.,

vsn

absolutely not necessary. Their personal appearance may be insisted only as and when it is absolutely necessary and unavoidable. On other hearings, the petitioners may be represented by the advocate. The petitioner shall also ensure their advocate's presence before the Court on every hearing without fail, the advocate is directed to co-operate with the Court for disposing the case, without seeking any unnecessary adjournments.

6. Accordingly, this Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

27.09.2021

Index: Yes / No

Speaking order / Non speaking order

vsn

Copy To:

The District Munsif Cum Judicial Magistrate Court,

Thandarampattu

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