

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.869 of 2019 &  
Crl.M.P.No.12774 of 2019

1.Vijesh  
2.Vijalakshmi  
3.Unnikrishnan

... Petitioners

Vs.

1. Arya  
2. V.Vaishnav (Baby)  
S/o.Vijesh,  
Rep. by his Mother and Natural Guardian  
Namely, P.Arya.

... Respondents

PRAYER: Criminal Revision Case filed under 397 r/w 401 of Cr.P.C. to set aside the order of the learned Judge of Mahila Court at Udhagamandalam, The Nilgiris in Crl.A.No.26 of 2019, dated 19.07.2019, confirming the order passed in in M.C.No.14 of 2015, by the learned Principal District Munsif-cum Judicial Magistrate, Gudalur, dated 23.01.2019.

For Petitioners : Mrs.Ezhilarasi  
For M/s.T.Mathew

For Respondents : Mr.K.Bratheesh  
For M/s.Naveen Kumar Murthi

O R D E R

The first petitioner is the husband, second and third petitioners are the parents of the first petitioner. The first respondent is the wife and the second respondent is the son of the first respondent and the first petitioner.

2. Due to some matrimonial dispute, the first respondent/wife approached the learned Principal District Munsif-cum-Judicial Magistrate, Gudalur in M.C.No.14 of 2015,

under Section 12(1) of the Protection of Women from Domestic Violence Act, 2005 (In short 'the Act') and obtained an order on 23.01.2019. Against which, the appeal filed by the first petitioner/husband, in Crl.A.No.26 of 2019 before the learned Sessions Judge, Mahila Court, Udthagamandalam at Nilgiris, was dismissed, by confirming the order passed by the learned Principal District Munsif-cum-Judicial Magistrate, Gudalur in M.C.No.14 of 2015. Aggrieved by the above judgment, the petitioners/husband and his parents are before this Court.

3. The main contention of the learned counsel for the first petitioner / husband is that the first petitioner is residing in Kerala, the parents of the first petitioner are also in Kerala, marriage took place in Kerala and parents of the first respondent are also residing in Kerala and they are having permanent and temporary residence in Kerala. Either the first respondent-wife or any of the parties residing in Tamil Nadu and as such, no cause of action arisen to file a case in Tamil Nadu. Hence, the learned counsel prays for setting aside the orders of the Courts below.

4. Per contra, the learned counsel for the first respondent / wife submitted that she resided temporarily in her relative house on the date of filing of the petition at Gudalur and therefore, invoked jurisdiction Magistrate, Gudalur and filed a petition under Section 12(1) the Act. The learned Judge, after considering the entire facts, awarded maintenance to the respondents, and the same was also confirmed by the learned appellate Judge, which warrants no interference. With regard to jurisdictional issue, the learned counsel has relied upon the Section 27 of the Act.

5. Heard the learned counsel on either side and perused the materials available on record.

6. It is an admitted fact that the petitioners are residing only in Kerala and marriage took place in Kerala, and at no point of time, the petitioners and the respondents were resided in Tamil Nadu or any place in the jurisdiction of the Magistrate or any place in Tamil Nadu. However, it is the contention of the learned counsel for the respondents that the respondents were resided in her relative house temporarily in Tamil Nadu and in support of his contentions, referred Section 27 of the Act.

7. There is no quarrel of interpretation of Section 27 of the Act, either of the parties in permanently or temporarily residing, they can invoke jurisdiction, whereas, this Court is not satisfied with the stand taken by the respondents that they are residing with the temporary residence in their relative house at Gudalur, therefore, this Court is of the view that the

learned Magistrate has no jurisdiction to entertain the application, as the case has been instituted against the petitioners on the sole intention of harassing, when the family members of both the petitioners and the respondents are residing permanently and temporarily in Kerala. Marriage took place in Kerala. The respondent has not established bona-fide reason for temporary residence in Gudalur, Tamil Nadu.

8. On the ground of jurisdiction alone, the orders passed by the Courts below are set aside, without expressing any merit of the respective party. Accordingly, this Criminal Revision Case is disposed of. However, liberty is given to the respondents to approach the jurisdictional Magistrate in Kerala, and work out their remedy. Consequently, connected M.P. is closed.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

r n s

To

1. The Sessions Judge of Magalir Neethimandram, Mahila Court(FTMC), Udhagamandalam at Nilgiris.
2. The Principal District Munsif-cum Judicial Magistrate, Gudalur.

Copy to: The Section Officer,  
Criminal Section,  
High Court, Madras.

+1cc to Mr.Ezhilarasi, Advocate, S.R.No.4772.

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RSV(CO)  
CSR 08.04.2021