



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2021

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THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRP(PD) (MD) .No. 962 of 2021
C.M.P (MD) .Nos.5399 & 5400 of 2021

1. R. Ratheesh
2. R. Vijayakumari
- 3.R. Rajesh
- 4.Janiba
- 5.R. Aneesh

..Petitioners / Respondents

Vs.

1. S. Ananthi
 2. R.A. Rekshin
 - 3.R.A. Akshitha
- (Respondents 2 and 3 are represented
through their natural guardian and Mother
1st respondent)

.. Respondents/petitioners

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records in D.V.C.No.6 of 2020 on the file of the Judicial Magistrate No.II, Kuzhithurai

For petitioners : Mr.S. Sivakumar

O R D E R

This Civil Revision has been filed to quash the proceedings in D.V.C.No.6 of 2020 on the file of the Court of the Judicial Magistrate No.II, Kuzhithurai

2. Admittedly, the marriage between the first petitioner and the first respondent was solemnized on 09.02.2015. The second petitioner is the mother; 3rd petitioner is the brother of the first petitioner and the fourth petitioner is the wife of the third petitioner.

3. The learned counsel for the revision petitioners would submit that the first respondent has filed the false petition impleading the petitioners 2 to 5, that there is no domestic relationship between them and that the complaint is a fraudulent one and she has misused the provision of the Domestic Violence Act.



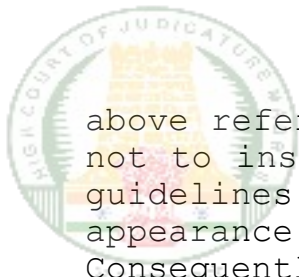
4. No doubt, the revision petitioners, as per the judgment of this Court rendered by **Hon'ble Mr.Justice. N.Anand Venkatesh.**, in **Crl.O.P.Nos.28458, 16411, 33643 of 2019 (Batch), dated 18.01.2021** have filed the present revision invoking the jurisdiction of this Court under Article 227 of the Constitution of India. In the said judgment, the Hon'ble Judge has laid down certain guidelines and procedures to be followed / complied with by the litigants and the Court, while dealing with the complaint initiated under the Domestic Violence Act.

5. In the present case, the petitioners have not approached the learned Magistrate as per the guidelines issued, but they have straightaway approached this Court hurriedly. It is pertinent to note that when there has been a patent perversity in the orders of the Tribunals and Courts or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted, High Court can interfere in exercise of its power of superintendence under Article 227 of the Constitution of India.

6. It is settled law that the High Court cannot, at the drop of a hat, in exercise of its power of superintendence, under Article 227 of the Constitution, interfere with the proceedings or orders of Tribunals and Courts nor can it act as a Court of appeal. The existence of alternative mode of redressal would operate as a restrain on the exercise of this power by the High Court. To put it in short, the jurisdiction has to be very sparingly exercised. In the case on hand, even assuming for a moment, if this Court is not inclined to interfere with the proceedings of the trial Court, it cannot be said that the same would result in miscarriage of justice. Considering the above, this Court is not inclined to admit the Revision.

7. It is pertinent to mention that in the guidelines issued in the above Judgment, it has been specifically observed that personal appearance of the respondent shall not be ordinarily insisted upon, if the parties are effectively represented through counsel and that Form VII of Domestic Violence Act, 2006, makes it clear that the parties can appear before the Magistrate either in person or through duly authorised counsel. Moreover, even if the respondent has failed to appear either in person or through his counsel, the Magistrate can proceed only to set ex parte and then, proceed to decide the application. Considering the above, it is clear that it is not mandatory for the revision petitioners to appear personally for all the hearings.

8. In the result, the Civil Revision Petition is dismissed and the revision petitioners are at liberty to approach the learned Judicial Magistrate, as per the guidelines issued in the Judgment



above referred. Further, the learned Judicial Magistrate is directed not to insist the personal appearance of the petitioners as per the guidelines referred above for the hearings in which the personal appearance of the petitioners are not necessary. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-II)

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/ /2021

Sub Assistant Registrar(CS)

trp

Copy To

The Judicial Magistrate No.II, Kuzhithurai

+1 CC to M/s.S.SIVAKUMAR, Advocate (SR-22152[F] dated 12/07/2021)

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