



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2021

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THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRP (PD) (MD) .No. 934 of 2021 and

CMP (MD) Nos.5259 and 5260 of 2021

WEB COPY

1.Navaneetha Krishnan @ Naveenkumar
2.C.Moorthy
3.M.Shanmugavalli
4.M.Ramkumar

:Petitioners/Respondents

Vs.

N. Karpagalakshmi @ Kanimozhi

: Respondent/Petitioner

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the proceedings pending in DVOP.No. 5 of 2020 on the file of Judicial Magistrate Court, Rajapalayam.

For petitioners : Mr. R. Murali

ORDER

This Civil Revision has been filed to quash the proceedings in D.V.O.P.No.5 of 2020 on the file of Judicial Magistrate Court, Rajapalayam.

2. Admittedly, the first petitioner is the husband of the respondent and their marriage was solemnized on 09.11.2016; the second petitioner is the father; 3rd petitioner is the mother and the fourth petitioner is the brother of the first petitioner. It is evident from the records that the first petitioner has filed a petition in HMOP.No.50 of 2018 on the file of the Family Court, Dindigul, against the respondent for restitution of conjugal rights and that since the respondent has remained ex-parte, ex-parte order was passed on 10.04.2019 granting the relief of restitution of conjugal rights. It is further evident that the respondent has filed a maintenance case against the first petitioner in M.C.No.15 of 2020 and the same is pending on the file of the Court of Judicial Magistrate, Rajapalayam.

3. The learned counsel for the revision petitioners would submit that the respondent has filed the complaint only to harass the first petitioner and his family members, that the respondent after leaving the matrimonial home on 12.04.2018, has filed the complaint after three years, that the respondent has filed the petition for maintenance under Section 125 C.P.C., with the same set of allegations, that the petitioners have no connection whatever



with the matrimonial issues between the first petitioner and the respondent and that therefore, the petitioners are constrained to file the above revision for setting aside the complaint.

4. No doubt, the revision petitioners, as per the judgment of this Court rendered by **Hon'ble Mr. Justice. N. Anand Venkatesh.**, in **Cr1.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. At this juncture, the learned counsel appearing for the revision petitioners would submit that the second petitioner is a Senior citizen, that the 3rd petitioner is having various ailments related to orthopedic, that the first petitioner is working in Chennai, that the 4th petitioner has no connection whatever with the allegations made by the respondent and that therefore, personal appearance of the petitioners may be dispensed with.

8. It is pertinent to mention that in the guidelines issued, 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, 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.

9. 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 is not necessary. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

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/ /2021

Sub Assistant Registrar(CS)

trp

To

The Judicial Magistrate Court, Rajapalayam.

+1 CC to M/s.R.MURALI, Advocate (SR-21015[F] dated 02/07/2021)

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