



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2021

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THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRP (PD) (MD) .No. 966 of 2021 and
CMP (MD) Nos. 5404 and 5405 of 2021

WEB COPY

1.P.Balakrishnan
2.P.Dhanalakshmi
3.Ponnambalam

:Petitioners

Vs.

S.Saranya

: Respondent

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India challenging the proceedings of the DVOP.No. 22 of 2019 on the file of the Court of the Judicial Magistrate, Vedasanthur, Dindigul District.

For petitioners : Mr. A. Haja Mohideen

ORDER

This Civil Revision has been filed to quash the proceedings in D.V.O.P.No.22 of 2019 on the file of the Court of the Judicial Magistrate, Vedasanthur, Dindigul District.

2. Admittedly, the marriage between the first petitioner and the respondent was solemnized on 10.07.2016. The second petitioner is the mother-in-law and the third petitioner is the father-in-law of the respondent. It is evident from the records that the respondent has filed a petition in HMOP.No.82 of 2019 under Section 9 of the Hindu Marriage Act against the first petitioner for restitution of conjugal rights and the same is pending on the file of Sub Court, Vedachandur. It is further evident that the first petitioner has filed a petition in HMOP.No.34 of 2020 against the respondent claiming divorce on the ground of cruelty and desertion and that the same is pending on the file of the Sub Court, Kulithalai.

3. The learned counsel for the revision petitioners would submit that the respondent by suppressing the matrimonial proceedings has filed the complaint under the Domestic Violence Act, with the false allegations, that there are no allegations against the petitioners in the report submitted by the Social Welfare Officer, that the respondent has initiated the proceedings in DVOP.No.22 of 2019, abusing the process of law and that therefore, the petitioners were 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 **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 restraint 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 2nd petitioner is aged more than 60 years and the third petitioner is aged more than 70 years, that they are suffering from various health issues and they are not in a position to attend the Court and that therefore, personal appearance of the petitioners may be dispensed with.

8. 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, 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 Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

trp

To

The Judicial Magistrate,
Vedasanthur,
Dindigul District.

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