



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. 932 of 2021 and

CMP (MD) .Nos. 5258 and 5280 of 2021

WEB COPY

1.Muthulakshmi
2.Subbulakshmi
3.Rajarathinam

:Petitioners / respondents 2 to 4

Vs.

Arumugaselvi

: Respondent / complainant

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India against the order proceedings in DVC.No. 1 of 2020 on the file of the Judicial Magistrate, Shenkottah, Tenaksi District.

For petitioners : Mr. V. Illanchezian

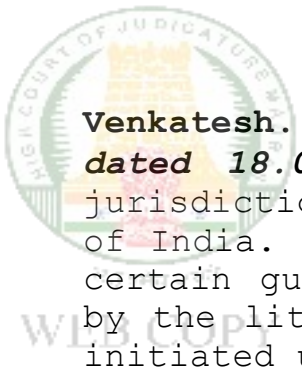
ORDER

This Civil Revision has been filed to quash the proceedings in D.V.C.No.1 of 2020 on the file of the file of the Judicial Magistrate, Shenkottah, Tenaksi District.

2. Admittedly, the respondent is the wife of one Sakthivel, son of the first petitioner. The second petitioner is the aunt of the said Sakthivel and the third petitioner is the husband of the second petitioner. It is not in dispute that the marriage between the respondent and the said Sakthivel was solemnized on 24.03.2019.

3. The learned counsel for the revision petitioners would submit that the respondent and her husband were living at Coimbatore, that the petitioners 2 and 3 are residing at Melmaruvathur, Cheyyur Taluk, that the respondent is now living at Vadakari, Shenkottah, Tenaksi District, that the petitioners have no connection whatever with the matrimonial issues allegedly existed between the respondent and her husband, that no specific allegations are levelled against the petitioners, that the learned Magistrate has taken cognizance of the complaint against the petitioners erroneously and that the proceedings initiated against the petitioners are illegal the same are liable to be quashed.

4. No doubt, the revision petitioners, as per the judgment of this Court rendered by **Hon'ble Mr.Justice. N.Anand**



Venkatesh., in CrI.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 first petitioner is aged 61 years living at Coimbatore, that the petitioners 2 and 3 are living at Melmaruvathur and that therefore, personal appearance of the petitioners before the trial Court 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 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 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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/ /2021

Sub Assistant Registrar (CS)

trp

To

The Judicial Magistrate, Shenkottah, Tenaksi District.

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