



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2021

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRP (PD) (MD) .No. 923 of 2021 and
CMP (MD) .No. 5219 of 2021

1. Narayanan

2. Kasthuri

:Petitioners/respondents 2 & 3

Vs.

M.Y. Jeyalakshmi

: Respondent / petitioner

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records of the complaint in DVC.No.7 of 2021 on the file of the Judicial Magistrate Court, Devakottai, Sivagangai District.

For petitioners

: Mr. R. M. Arun Swaminathan

ORDER

This Civil Revision has been filed seeking orders to quash the proceedings in DVC.No.7 of 2021 on the file of the Court of the Judicial Magistrate, Devakottai, Sivagangai District.

2. Admittedly, the respondent is the wife of one Annamalai, the son of the revision petitioners herein.

3. The learned counsel for the revision petitioners would submit that the respondent without any valid reason has filed the complaint in DVC.No. 7 of 2021, to harass the petitioners with an ulterior motive in order to take revenge, that the petitioners are unable to do their work with free of mind due to the said litigation, that the respondent has not filed any prima facie materials against the petitioners for taking action under the Domestic Violence Act 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 **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 said judgment, the Hon'ble Judge has laid down



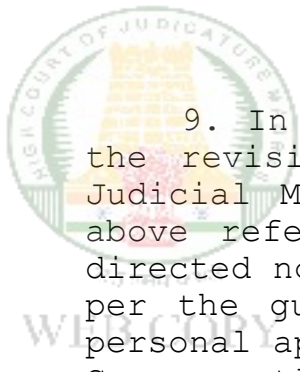
certain guidelines and procedures to be followed / complied with by the litigants and the Court, while dealing with the complaint initiated under the Domestic Violence Act.

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 petitioners are Senior citizens aged about 70 years, that the second petitioner has fell down recently and suffered injury in her Spinal cord, that she has been taking treatment at Madurai Meenakshi Mission Hospital, that the second petitioner is not in a position to travel to Devakottai and attend the Court proceedings 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, that Form VII of Domestic Violence Rules, 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 only proceed 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)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

trp

To

The Judicial Magistrate, Devakottai, Sivagangai District.

CRP (PD) (MD) .No. 923 of 2021 and

CMP (MD) .No. 5219 of 2021

30.06.2021

KB (12.07.2021) 3P 2C