



C.R.P.No.2633 of 2021
and C.M.P.Nos.19524 of 2021 & 2833 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022
CORAM:

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

C.R.P.No.2633 of 2021

and

C.M.P.Nos.19524 of 2021 & 2833 of 2022

D. Sureshkumar

... Petitioner

Vs.

1. Rajasundari

2. S. Lakshminarayanan (Minor)

...Respondents

(2nd respondent minor represented by his
natural guardian mother and next friend,
1st respondent herein)

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the impugned proceeding in pursuance of the summons dated 31.03.2021 issued by the Family Court, Thanjavur in Crl M.P. Nos. 55,57,59,61,65 of 021 in MC No.8 of 2021, consequently direct the Family Court, Thanjavur, to follow the guideline of the Supreme Court in **Krishnaveninagam v. Harish Nagam**, reported in **2017 ((2RCR) (Civil 358))** and issue fresh summon to the petitioner affording him opportunity to appear through video conference, and permit him to represent the case through legal practitioner.

For Petitioner : Mr. P.R. Thiruneelakandan

For R1 & R2 : Mr. G. Thiyagarajan



WEB COPY



C.R.P.No.2633 of 2021
and C.M.P.Nos.19524 of 2021 & 2833 of 2022

ORDER

The revision petitioner is the respondent in M.C.No.8 of 2011 on the file of the Judicial Magistrate, Thanjavur. The respondents/petitioners filed the said petition claiming maintenance from the present petitioner. An *ex parte* order dated 06.06.2014 was passed granting maintenance to the respondents/petitioners. Subsequently the respondents/petitioners filed CMP Nos 55,57,59,61, 63, 65 of 2021 claiming arrears of maintenance. Summons were issued to the present revision petitioners. Challenging which the present Civil Revision Petition is filed.

2. The learned counsel for the revision petitioner relied on the decision in ***Krishna Veni Nagam Vs. Harish Nagam*** reported in ***CDJ 2017 SC 275*** and contended that in a matrimonial dispute, custody matters, proceedings between parties to a marriage and arising out of the disputes between the parties to a marriage, the courts have to take safeguards as enumerated in the judgment. According to him, the family court before issuing summons did not indicate the availability of video



C.R.P.No.2633 of 2021
and C.M.P.Nos.19524 of 2021 & 2833 of 2022

conferencing facility and availability of legal aid service as per the directions of the Hon'ble Supreme Court in the decision cited supra.

3. Per contra, the learned counsel for the respondent relied on the decision in *Santhini Vs. Vijaya Venkatesh* reported in *CDJ 2017 SC 1137* wherein it has been held thus:

"4. After so stating, the two-Judge Bench felt the need to issue directions which may provide alternative to seeking transfer of proceedings on account of inability of a party to contest proceedings at a place away from their ordinary residence which will eventually result in denial of justice. The safeguards laid down in the said judgment are:-

“(i) Availability of videoconferencing facility.

(ii) Availability of legal aid service.

.....

8. The two-Judge Bench referred to some of the decisions which we have already referred to and also adverted to Ram Gulam Pandit v. Umesh J. Prasad and [Rajwinder Kaur v. Balwinder Singh](#) and opined that all the authorities are based on the facts of the respective cases and they do not lay down any particular law which operates as a precedent. Thereafter, it noted that taking



WEB COPY



C.R.P.No.2633 of 2021
and C.M.P.Nos.19524 of 2021 & 2833 of 2022

advantage of the leniency shown to the ladies by this Court, number of transfer petitions are filed by women and, therefore, it is required to consider each petition on merit. Then, the Court dwelled upon the fact situation and directed that the husband shall pay all travel and stay expenses to the wife and her companion for each and every occasion whenever she was required to attend the Court at Delhi. From the aforesaid decision, it is quite vivid that the Court felt that the transfer petitions are to be considered on their own merits and not to be disposed of in a routine manner.

...

50. The two-Judge Bench had referred to the decisions where the affirmative rights meant for women have been highlighted in various judgments. We have adverted to some of them to show the dignity of woman and her rights and the sanctity of her choice. When most of the time, a case is filed for transfer relating to matrimonial disputes governed by the 1984 Act, the statutory right of a woman cannot be nullified by taking route to technological advancement and destroying her right under a law, more so, when it relates to family matters. In our considered opinion, dignity of women is sustained and put on a higher pedestal if her choice is respected. That will be in



WEB COPY



C.R.P.No.2633 of 2021
and C.M.P.Nos.19524 of 2021 & 2833 of 2022

consonance with [Article 15\(3\)](#) of the Constitution.

....

55. Be it noted, sometimes, transfer petitions are filed seeking transfer of cases instituted under the Protection of Women from [Domestic Violence Act](#), 2005 and cases registered under the [IPC](#). As the cases under the said Act and the [IPC](#) have not been adverted to in Krishna Veni Nagam (*supra*) or in the order of reference in these cases, we do intend to advert to the same.

56. In view of the aforesaid analysis, we sum up our conclusion as follows :-

(i) In view of the scheme of the 1984 Act and in particular [Section 11](#), the hearing of matrimonial disputes may have to be conducted in camera.

(ii) After the settlement fails and when a joint application is filed or both the parties file their respective consent memorandum for hearing of the case through videoconferencing before the concerned Family Court, it may exercise the discretion to allow the said prayer.

(iii) After the settlement fails, if the Family Court feels it appropriate having regard to the facts and circumstances of the case that videoconferencing will sub-serve the cause of justice, it may so direct.



WEB COPY



C.R.P.No.2633 of 2021
and C.M.P.Nos.19524 of 2021 & 2833 of 2022

(iv) *In a transfer petition, video conferencing cannot be directed.*

(v) *Our directions shall apply prospectively.*

(vi) *The decision in Krishna Veni Nagam (supra) is overruled to the aforesaid extent*

Since the decision in *Krishna Veni Nagam (cited supra)* is over ruled by a Three Bench decision of the Hon'ble Supreme Court, the present petition is liable to be dismissed and is therefore dismissed. No costs. Consequently connected miscellaneous petitions are also dismissed.

31.10.2022

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga

To

The Family Court Judge, Thanjavur



WEB COPY



C.R.P.No.2633 of 2021
and C.M.P.Nos.19524 of 2021 & 2833 of 2022

R. HEMALATHA, J.

bga

C.R.P.No.2633 of 2021

and

C.M.P.Nos.19524 of 2021 & 2833 of 2022

31.10.2022