



CRP(MD)No.1642 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 02.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRP(MD)No.1642 of 2021
and C.M.P(MD).Nos.8897 and 8898 of 2021

R.Inbasudha : Petitioner/2nd Respondent

Vs.

P.Jenarthana : Respondent/Complainant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to strike down the prayer made in so far as the petitioner in DVC.No.26 of 2019 on the file of the learned Judicial Magistrate No.I, Tirunelveli is concerned by allowing this civil revision petition.

For Petitioner : Mrs.P.Jessi Jeeva Priya

For Respondent : Mrs.Lita Srinivasan

ORDER

This revision petition has been filed by the second respondent in DVC.No.26 of 2019 pending on the file of the learned Judicial Magistrate No.1, Tirunelveli.



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2.The respondent has filed a petition in DVC.No.26 of 2019 under Section 12 of the Domestic Violence Act (hereinafter referred to as 'Act' for brevity) and also filed applications under Sections 18 to 22 of the Act for certain reliefs, wherein notice was issued to the petitioner/2nd respondent. The petitioner claims that she is working at Chennai and she is not having any domestic relationship with the respondent/complainant.

3.In view of the decision rendered by the Hon'ble Full Bench of this Court in Crl.O.P.SR.No.31852 of 2022 etc., batch, dated 17.11.2022, this Court is not inclined to entertain this revision petition.

4.At this juncture, the learned counsel for the respondent submits that the petitioner has committed perjury by filing false affidavit. Therefore, the respondent has already filed an application for initiating action for perjury against the petitioner in CMP(MD).No.776 of 2022 in CRP(MD).No.1642 of 2021 and the same is still pending.



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5.A perusal of the docket entry reveals that no notice was ordered by this Court. However, the learned counsel for the respondent disputed the same stating that the revision petitioner has filed a counter in CMP(MD).No.776 of 2022. Thereafter, this Court has directed the Court Officer to ascertain as to whether any notice has been ordered in the Civil Miscellaneous Petition and it is found that no notice has been ordered in CMP(MD).No.776 of 2022.

6.Despite the same, the learned counsel for the respondent vehemently opposed that this Court had already entertained CMP(MD).No. 776 of 2021 and therefore, this Court handed over the entire bundle to her to ascertain whether any notice was ordered. Thereafter, the learned counsel confirms that though there is no such order, counter affidavit was served on her through mail by the earlier counsel, namely, Mrs.Jessi Jeeva Priya.

7.Since the main Civil Revision Petition itself is not maintainable, this Court is not inclined to entertain CMP(MD)No.776 of 2022.



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8. Accordingly, the Civil Revision Petition is dismissed and CMP(MD)No.776 of 2022 is also dismissed. However, the respondent is at liberty to file necessary application before this Court for prosecuting the perjury in the manner known to law.

9. It is made clear that the Hon'ble Full Bench has held that DVC proceedings is not a trial and it is only an enquiry and the personal appearance of the parties is not required in the proceedings provided if they are represented by the counsel and therefore, the petitioner's presence before the trial Court is not required provided if the petitioner is contesting the above DVC.No.26 of 2019 through the counsel and the petitioner shall appear before the trial Court as and when her presence is required by the trial Court. If the petitioner is having a grievance that she has been improperly added as a party, it is always open to her to file necessary application before the learned Judicial Magistrate No.I, Tirunelveli and the same may be considered by the trial Court and if the petitioner is still aggrieved, she is having a remedy under Section 29 of the Act.



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10.The learned counsel for the respondent/complainant submits that though this Court had earlier issued a direction for early disposal of the complaint within a period of two months, the revision petitioner and her brother are dragging the proceedings.

11.Since there was already a direction for early disposal, the learned Judicial Magistrate No.I, Tirunelveli, shall also endeavour to conclude the proceedings in DVC.No.26 of 2019 within a period of three(3) months from the date of receipt of a copy of this order. No costs. Consequently, C.M.P(MD).Nos.8897 and 8898 of 2021 are closed.

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Index : Yes / No

Internet : Yes / No

Rmk

To

The Judicial Magistrate No.I, Tirunelveli.



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B.PUGALENDHI, J.

Rmk

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