



CRP(PD)(MD)No.1798 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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and

CMP(MD)Nos.9642 and 9644 of 2021

1. K.S.Selvakumar
2. S.Chellathai
3. S.Kasidurai
4. K.Santhanamari
5. Kasi Thangam
6. Kalavathi
7. Shanthi
8. Parvathi

... Petitioners

versus

1. R.Indumathi
2. Minor Abishek
3. Minor Arjun
- (Minors are represented by
her mother 1st respondent)
4. F.Chellapackiyam

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, seeking to strike off the proceedings initiated by the respondents herein in D.V.C.No.35 of 2020 on the file of the learned



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Judicial Magistrate No.V, Tirunelveli as against the petitioners herein, under the Provisions of Section 12 of Protection of Women from Domestic Violence Act, 2005.

For Petitioners : Mr.C.Mayilvahana Rajedndran

For Respondents : No appearance

ORDER

This Civil Revision Petition is filed as against the proceedings initiated by the first respondent herein in D.V.C.No.35 of 2020 before the learned Judicial Magistrate No.V, Tirunelveli. The petitioners herein are respondents in D.V.C.No.35 of 2020.

2. The learned counsel appearing for the petitioners submits that the first petitioner is the husband of the first respondent. The petitioners 2 to 8 are in-laws of the first respondent and they are living separately and they never shared the household with the first respondent. However, the first respondent has initiated the above proceedings with false allegation as against them in order to harass



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them. He further submits that absolutely, no cause of action arose at Tirunelveli and the residential proof of the first respondent is in Katcherry, Thalavaipuram, Tuticorin District and therefore, the jurisdictional Court is the Judicial Magistrate, Vilathikulam and hence, the proceedings initiated by the first respondent before the Judicial Magistrate No.V, Tirunelveli is liable to be quashed for lack of jurisdiction.

3. Though notice was served on the first respondent and her name has also been printed in the cause list, there is no representation for the first respondent.

4. This Court considered the submissions made by the learned counsel appearing for the petitioner.

5. Though the petitioners have raised a ground of jurisdiction, they have not substantiated the same as to how the concerned Judicial



Magistrate is not having the jurisdiction to take up the complaint of the first respondent. From the reading of the complaint given by the first respondent, it clearly shows that the first respondent has made specific allegations as against all the petitioners herein. Whether those allegations are true or not can be decided only during the trial by the concerned Judicial Magistrate.

6. Further, Section 27 of the Protection of Women from Domestic Violence Act, 2005, deals with the jurisdiction, which reads as follows:

27. Jurisdiction – (1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which –

- (a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or
- (b) the respondent resides or carries on business or is employed; or



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(c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act (2) Any order made under this Act shall be enforceable throughout India.

7. From the reading of the above said provision, it is clear that the petition under the Domestic Violence Act can be filed in a Court where the “person aggrieved” permanently or temporarily resides or carries on business or is employed.

8. In the present case, the first respondent herein is residing along with her parents at Palayamkottai. Therefore, the learned Judicial Magistrate No.V, Tirunelveli, is the competent Court to entertain the complaint filed by the first respondent under Domestic Violence Act. Therefore, the objection raised by the petitioner that the learned Judicial Magistrate No.V, Tirunelveli, is not having jurisdiction, cannot be accepted.



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9. The petitioners 2 to 8 claim that they are living separately and they never shared the household with the first respondent, however, the first respondent, in order to harass them, filed the above petition under Domestic Violence Act before the learned Judicial Magistrate, by adding them unnecessarily as parties to the proceedings. If the petitioners are having any grievance that they have been unnecessarily added as parties to the proceedings, it is open to them to file an application before the learned Magistrate to delete their names from the proceedings.

9. Accordingly, the Civil Revision Petition is disposed of in the following terms:

(i) If the petitioners are having any grievance that they have been unnecessarily added as parties to the proceedings, it is open to them to file an application before the learned Magistrate to delete their names and if any such application is filed, the learned Magistrate shall



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decide the same, as per the decision of the Hon'ble Supreme Court in ***Kunapareddy v. Kunapareddy Swarna Kumari***, reported in ***(2016) 11 SCC 774***.

(ii) If the petitioners are represented through a counsel, the learned Magistrate shall not insist on the personal appearance of the petitioners. However, the petitioners shall appear before the Court as and when their presence is required by the Court.

(iii) The learned Magistrate is directed to dispose of D.V.C.No.35 of 2020 as expeditiously as possible preferably within a period of five months from the date of receipt of a copy of this order.

No costs. Consequently, connected miscellaneous petitions are closed.

29.11.2022

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Index : Yes / No.

Internet : Yes / No.

To

1. The learned Judicial Magistrate No.V,
Tirunelveli.



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B.PUGALENDHI, J.

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