



C.R.P.No.4086 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.4086 of 2023

and

C.M.P.Nos.24986 & 24988 of 2023

1.M.Ranjith

2.M.Nirmala

3.B.Saraswathi

... Petitioners

-Vs-

1.Jamuna

2.Minor Umaiyal

rep. by her natural guardian and
next friend Mrs.Januna

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to quash the D.V.C. No.13 of 2023 on the file of the learned Judicial Magistrate No.1, Bhavani.

For Petitioner : Mr.B.Mohan

ORDER

The first Revision Petitioner is the husband and he has filed this Civil Revision Petition praying to quash the proceedings pending before



C.R.P.No.4086 of 2023

the learned Judicial Magistrate No.1, Bhavani in D.V.C.No. 13 of 2023.

WEB COPY

2. Since the relief is claimed to quash the aforesaid proceedings initiated by 1st respondent wife, notice to the respondents is dispensed with.

3. The learned counsel for Revision Petitioner would submit that by making false and baseless allegations, in order to harass the petitioners, the 1st respondent wife initiated the deviation proceedings. Hence, he prayed to quash the proceedings.

4. On perusal of records, it reveals that the 1st respondent wife, who is living with a minor child, initiated D.V.C. proceedings before the learned Judicial Magistrate No.1, Bhavani. As per the allegations, they got married in the year of 2017 and due to wedlock, they got a child, but now she left the matrimonial home and living with her minor child in her parents house. In spite of direction, no interim maintenance was not paid to the wife and child. If at all, any vexatious allegations levelled against them, the Revision Petitioners are at liberty to file appropriate application before the court of law.

5. Furthermore, considering the above, the petitioners are entitled to



C.R.P.No.4086 of 2023

approach the concerned Magistrate Court itself and raise the issue of maintainability and other preliminary issues and if such an application is filed, the learned Magistrate shall decide the same as per the decision of the Hon'ble Supreme Court in ***Kunapareddy @ Nookala Shanka Balaji Vs. Kunapareddy Swarna Kumari and another*** reported in (2016) 11 SCC 774.

6. On considering the entire facts and circumstances, this Court is of the clear view that the petitioners have not shown any legal ground or reason to quash the complaint and hence, this Court concludes that the Civil Revision is devoid of merits and the same is liable to be dismissed.

7. Regarding the petitioners' prayer for dispensing with their personal appearance, it is necessary to refer the following direction in ***Arul Daniel's case*** above referred,

“76.

iv. Personal appearance of the respondent(s) shall not be ordinarily insisted upon, if the parties are effectively represented through a counsel. Form VII of the D.V. Rules, 2006, makes it clear that the parties can appear before the Magistrate either in person or through a duly authorized counsel. In all cases, the personal appearance of relatives and other third parties to the domestic



C.R.P.No.4086 of 2023

WEB COPY

relationship shall be insisted only upon compelling reasons being shown. (See Siladitya Basak v. State of West Bengal (2009 SCC OnLine Cal 1903).”

8. The Hon'ble Full Bench has reiterated the legal position that the proceedings under the Domestic Violence Act are civil in nature and as such, the respondents in the Domestic Violence complaint cannot be considered as accused and there is absolutely no need or necessity for them to appear for each and every hearing before the learned Magistrate. Hence, the learned Judicial Magistrate is directed not to insist the appearance of the petitioners/respondents on every hearings, but at the same time, the learned Magistrate is at liberty to direct the petitioners/ respondents to appear if their appearance is necessary.

9. With the above observation and direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

28.11.2023

Index : Yes/No
Speaking Order : Yes/No
rpp

To



C.R.P.No.4086 of 2023

The Judicial Magistrate No.1, Bhavani.

WEB COPY

T.V.THAMILSELVI, J.

rpp

C.R.P.No.4086 of 2023

28.11.2023