



WEB COPY



C.R.P.No. 4371 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4371 of 2023

and

C.M.P.No. 26565 of 2023

1.G. Karthikeyen
2.Saroja
3.Guruswamy
4.Balasubramani

.. Petitioners

Vs

G. Kokila

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records with respect of complaint filed by respondent in DVC.No.6 of 2022 on the file of Judicial Magistrate-II, Hosur, Krishnagiri.

For Petitioners : Mr. T. Sivagnasambandan



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ORDER

This Civil Revision Petition is filed to call for the records in respect of the complaint filed by respondent in D.V.C.No.6 of 2022 on the file of Judicial Magistrate-II, Hosur, Krishnagiri.

2. The revision petitioners are the in-laws, bother-in-law and her husband of the defacto complainant. The respondent initiated D.V.C., proceedings against them.

3. The learned counsel for the petitioners submitted that fourth petitioner herein is the brother of the husband who is no way connected with the alleged matrimonial dispute between the first petitioner and the defacto complainant and in order to harass, she come forward with the petition with false allegations and prayed to quash the proceedings.

4. On perusal of the records, the marriage between the first petitioner and defacto complainant was solemnized in the year 2020. Thereafter, they got separated and the defacto complainant is living with her



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parents. As per the allegations, she was harassed by in-laws and forcibly sent out from the matrimonial home and she particularly mentioned that her jewels and other articles are in the hands of the petitioners. In spite of several attempts for re-union, they are not inclined. Hence, she approached the Court.

5. On seeing the entire allegations, the defacto complainant has narrated many incidents said to be harassed by the revision petitioners by invoking Section 22 CPC praying damages from petitioners 1 to 4. If at all it is a vexatious one, all the petitioners are entitled to file appropriate application before the trial Court as per the ratio laid down by the Hon'ble Supreme Court in ***Kunapareddy @ Nookala Shanka Balaji Vs. Kunapareddy Swarna Kumari and another*** reported in ***(2016) 11 SCC 774***.

6. Furthermore, the learned counsel specifically pointed out that there is no specific allegation made against the brother of the first petitioner. Furthermore, it is like a civil proceeding as per the ratio laid down in ***Arul***



Daniel's case, the personal appearance of the parties are ordered to be dispensed with except 1st petitioner.

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

7. 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



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revision petitioners 2 to 4 on every hearings, but at the same time, the learned Magistrate is at liberty to direct the revision petitioners to appear if their appearance is necessary.

8. With the above observation, this Civil Revision Petition is dismissed. Liberty is granted to the Revision Petitioners to work out their remedy before the trial Court by invoking appropriate law to discharge themselves. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

01.12.2023

Index :Yes/No
Neutral Citation :Yes/No
AT

To
The Judicial Magistrate-II, Hosur, Krishnagiri.



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T.V.THAMILSELVI, J.

AT

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