



C.R.P.No.4201 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2023

CORAM:

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

C.R.P.No.4201 of 2023
and
C.M.P.No. 25570 of 2023

1. Meena Devi
2. Natasha ... Petitioners

-Vs-

1. Dhiraviyamalai Janani
2. Hariramraj ... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to strike out the name of the petitioners/2nd and 3rd respondents in D.V.C.No.31 of 2021 on the file of Hon'ble Judicial Magistrate No.3, Tiruppur.

For Petitioner : Mr.M.Santhanaraman



WEB COPY



C.R.P.No.4201 of 2023

ORDER

This Civil Revision Petition has been filed by the Revision Petitioners praying to strike of their names in D.V.C.No.31 of 2021 on the file of Judicial Magistrate No.3, Tiruppur filed by the 1st respondent.

2. The learned counsel for Revision Petitioners would submit that they are residing somewhereelse outside the jurisdiction of Judicial Magistrate Court, however, against them, the said proceedings was initiated by the 1st respondent, as such is not maintainable in law. Furthermore, by relying the authority laid down by this court in a batch of Criminal Original Petitions reported in **2022 SCC Online Mad 5435**, in the case of **Arul Daniel and others vs. Suganya etc.**, the learned counsel for Revision Petitioner argues that they were residing somewhere else and at the time of Covid period, the Revision Petitioners are not available, but against them, she gave false allegations as if they were the persons harassed her.

3. Records perused. On perusal of facts, it would reveals that they



C.R.P.No.4201 of 2023

are entitled to raise their objections before the trial court, without which, the issue cannot be decided. However, all the parties are directed to take all their defence before the trial court and not before this court. Furthermore, considering the above, the petitioners are entitled to 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.

4. 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.

5. 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,



C.R.P.No.4201 of 2023

WEB COPY

“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).”

6. 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/



C.R.P.No.4201 of 2023

respondents to appear if their appearance is necessary.

WEB COPY

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

17.11.2023

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

To

The Principal Sub-Judge, Tiruvannamalai.



WEB COPY



C.R.P.No.4201 of 2023

T.V.THAMILSELVI, J.

rpp

C.R.P.No.4201 of 2023

17.11.2023