



C.R.P.No.4018 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2023

CORAM:

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

C.R.P.No.4018 of 2023

and

C.M.P.Nos.24599 & 24602 of 2023

1. V.M.Suresh

2. Sulochana

... Petitioners

-Vs-

M.Umamaheswari

... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to call for entire records in D.V.C.No.66 of 2023 on the file of learned XVII Metropolitan Magistrate at Saidapet, Chennai and quash the same by allowing this Civil Revision Petition.

For Petitioner

: Mr.J.Ramkumar



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ORDER

The first Revision Petitioner is the husband and he has filed this Civil Revision Petition praying to quash the proceedings pending before the XVII Metropolitan Magistrate, Saidapet, Chennai in D.V.C.No. 66 of 2023.

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

3. The learned counsel for Revision Petitioner would submit that due to family dispute, he filed a petition for divorce before the IV Addl. Family Court, Chennai in H.M.O.P.No. 3697 of 2017 on the ground of cruelty and the same was dismissed as not pressed. Subsequently, the respondent wife filed a petition in F.C.O.P.No. 155 of 2018 before the Family Court, Vellore. Thereafter, as per the order of this court in Tr.C.M.P.No.553 of 2018, the said petition in H.M.O.P.No.3697 of 2017 was transferred to Family Court, Vellore and the same was renumbered as F.C.O.P.No. 41 of 2019 for joint trial along with F.C.O.P.No.155 of 2018. Thereafter, both petitions were jointly tried by the Family Court, Vellore. Both petitions were jointly tried by the learned trial judge. On considering both side



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submissions, the trial judge by dismissing the petition filed by the 1st revision petitioner as not pressed, he was directed to resume matrimonial cohabitation with the respondent wife and to render his rights and duties in the matrimonial life without fail by allowing the petition filed by respondent wife. He would further submit that after dismissal of Original Petition, the respondent wife filed a complaint in D.V.C.No.66 of 2023 under Sec. 12, 19, 20, 21, 22,23 of Protection of Women from Domestic Violence Act. After receipt of summons, the Revision Petitioner husband preferred this Revision Petition stating that the complaint as such is not maintainable against her mother-in-law, who is no way connected with the alleged dispute pending between them. But, the trial judge failed to consider that the complaint as such is not maintainable for the reason that she has not disclosed the fact that she has already got the relief before the Family Court. Therefore, she filed that vexatious complaint by abusing process of law, since because all the harassment was caused by her.

3. Admittedly, already the restitution of conjugal rights was ordered in favour of respondent wife. Even then, he has not complied that order and thereafter, he has not lived with her. If at all, the Revision Petitioners are having any valid defence, they are directed to work out their remedy



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before the trial court by filing appropriate application. Accordingly, this Civil Revision Petition is disposed of. However, as the 1st revision petitioner's mother, who is arrayed as 2nd Revision Petitioner is aged about 59 years, her appearance is ordered to be dispensed with and she can appear as and when required before the trial court. No costs.

22.11.2023

Index : Yes/No
Speaking Order : Yes/No
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To

XVII Metropolitan Magistrate,
Saidapet, Chennai.



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T.V.THAMILSELVI, J.

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