



C.R.P.No.4626 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2023

CORAM:

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

C.R.P.No.4626 of 2023

and

C.M.P.Nos. 27570 & 27572 of 2023

Karthiyayeni

... Petitioner

-Vs-

1. Reshma Sri
2. Sathishkumar
3. Babu @ Lakshmi Narayanan
4. Jeyanthi

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to strike off the complaint filed against this petitioner under Domestic Violence Act in D.V.C.No.18 of 2023 on the file of Judicial Magistrate, Addl. Mahila Court, Cuddalore by allowing the C.R.P.



C.R.P.No.4626 of 2023

WEB COPY

For Petitioner

: Ms. A.Subadra

ORDER

This Civil Revision Petition has been filed by the Revision Petitioner praying to strike off the complaint filed against this petitioner under Domestic Violence Act in D.V.C.No. 18 of 2023 on the file of learned Judicial Magistrate, Addl. Mahila Court, Cuddalore.

2. Since the relief claimed by the Revision Petitioners to strike off the complaint in D.V.C. proceedings, notice to the respondents is dispensed with.

3. The learned counsel for Revision Petitioner would submit that she is the sister-in-law of 1st respondent and she had raised false allegations against her, but, in fact, the Revision Petitioner is no way connected with the matrimonial dispute for herself and her husband. Hence, she wanted to quash the proceedings as it is vexatious one.



C.R.P.No.4626 of 2023

WEB COPY

4. Records perused. On perusal of facts, it would reveals that already the petition in H.M.O.P.No. 399 of 2022 was filed by the 1st respondent/defacto complainant for nullity of marriage and the same is pending before the Family Court, Cuddalore, wherein the respondents 2 to 4 have also appeared. If at all, any allegation is false, she is entitled to raise all the allegations before the Magistrate Court. Already, the 1st respondent filed a petition divorce stating that her husband had harassed her and also there was no consummation of marriage and accordingly, she prayed to grant permanent alimony. So, the allegations against her husband is also grave in nature. Hence, with the aforesaid facts, as the Revision Petitioner approached this Court stating that the allegation is false one, she is entitled to file application before the appropriate forum, however, she got married and settled with her husband. She can also 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.



C.R.P.No.4626 of 2023

WEB COPY

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

6. Furthermore, with regard to her prayer for dispensing with her personal appearance in C.M.P.No.27572 of 2023, 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 relationship shall be insisted only upon compelling reasons being shown. (See Siladitya Basak v. State of West Bengal (2009 SCC OnLine Cal 1903).”



C.R.P.No.4626 of 2023

WEB COPY

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 revision petitioner on every hearings, but at the same time, the learned Magistrate is at liberty to direct the revision petitioner to appear if her appearance is necessary.

8. With the above observation, this Civil Revision Petition is dismissed as no merit. Liberty is granted to the Revision Petitioner to work out her remedy before the Magistrate Court. No costs. Consequently, the connected Civil Miscellaneous Petition in C.M.P.No. 27570 of 2023 is closed.

19.12.2023

Index : Yes/No

Speaking Order : Yes/No

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To

The Judicial Magistrate, Addl. Mahila Court, Cuddalore.



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C.R.P.No.4626 of 2023

T.V.THAMILSELVI, J.

rpp

C.R.P.No.4626 of 2023

19.12.2023