



C.R.P.No.4671 of 2023

WEB COPY

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.4671 of 2023

and

C.M.P.No. 27766 of 2023

1. Ashokkumar
2. Palanisamy
3. Paaval
4. Rajkumar
5. Selvaraj

... Petitioners

-Vs-

1. Ramya
2. Ivaniya (minor)
rep. by her mother and next
friend 1st respondent Ramya

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to strike off the petition in D.V.C.No.8 of 2023 on the file of learned Judicial Magistrate, Rasipuram

For Petitioners

: Mr. V.Chinnasamy



WEB COPY



C.R.P.No.4671 of 2023

ORDER

This Civil Revision Petition has been filed by the Revision Petitioners praying to strike off the petition in D.V.C.No.8 of 2023 on the file of learned Judicial Magistrate, Rasipuram.

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

3. The learned counsel for Revision Petitioners would submit that 2nd and 3rd petitioners are parents of 1st revision petitioner. The 4th and 5th revision petitioners are brothers of 1st revision petitioner. The 1st revision petitioner is working in Government service in TNPSC. The 1st respondent/defacto complainant raised false allegations against the Revision Petitioners in order to harass them, but, in fact, the Revision Petitioners 2 to 5 have not interfered into the matrimonial life of 1st revision petitioner and the 1st respondent. Hence, they denied the allegations levelled against them and prayed to quash the proceedings.



C.R.P.No.4671 of 2023

WEB COPY

4. Records perused. On perusal of facts, it would reveals that they are no way connected with the matrimonial life between the defacto complainant and her husband, in fact, she had happily lived with her inlaws, but suppressing the facts, she filed the said petition. The 1st respondent is living with a child and the petition was filed only recently. If at all, any allegations are false in nature, they are entitled to raise the same before the magistrate 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 Revision 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***.

5. On considering the entire facts and circumstances, this Court is of the clear view that the Revision Petitioners have not shown any legal



C.R.P.No.4671 of 2023

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.

6. Furthermore, since the 1st revision petitioner is employed at TNPSC and the Revision Petitioners are aged about more than 65 years, with regard to their 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 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.4671 of 2023

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 petitioners 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 Magistrate Court. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

19.12.2023

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

To
The Judicial Magistrate, Rasipuram.



WEB COPY



C.R.P.No.4671 of 2023

T.V.THAMILSELVI, J.

rpp

C.R.P.No.4671 of 2023

19.12.2023