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C.R.P.No.4503 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2023

CORAM:

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

C.R.P.No.4503 of 2023

and

C.M.P.Nos.27045 & 27046 of 2023

1. Joseph Clament
2. Gnana Ruby

... Petitioners

-Vs-

Steffy Joesphine

... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the interim prohibitory order dated 10.10.2023 and made in Cr.M.P.No. 9919 of 2023 in D.V.C.No.108 of 2023 passed by the Hon'ble Chief Judicial Magistrate at Puducherry.

For Petitioners : Mr.R.Chandrasudan

ORDER

Challenging the impugned interim prohibitory order passed in Crl.M.P.No. 9919 of 2023 in D.V.C.No. 108 of 2023 passed by the learned



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Chief Judicial Magistrate, Puducherry, the Revision

Petitioners/Respondents preferred this Civil Revision Petition.

2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondent is dispensed with.

3. Before the trial court, the respondent herein is the defacto complainant, who is daughter of Revision Petitioners and she had initiated D.V.C. proceedings in D.V.C.No.108 of 2023 and thereafter, she filed a petition in Crl.M.P.No.9919 of 2023 under Sec.23 r/w Sec.18 of Protection of Women from Domestic Violence Act praying for a prohibitory interim order. In that petition, she contended that her parents never provided love and care and support to her as a family and there had been innumerable instances of physical and mental abuses made by them, due to which she suffered a mental agony, thereby she was harassed by them on various occasions. Now, she joined in II year M.B.B.S. Course and at her own interest, she had taken temporary job as music instructor. But, her parents started to abuse the music teacher and also levelled charges against him that he had illicit relationship with her, thereby they have lodged various complaints. Therefore, she initiated D.V.C. Proceedings and also filed a petition seeking for prohibitory interim order not to cause any interference



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in her day-to-day life affairs. On hearing her contentions, the trial judge granted interim prohibitory order against the Revision Petitioners merely based on the allegation set out in the petition. Aggrieved over the same, the Revision Petitioners preferred this Civil Revision Petition.

4. The learned counsel for Revision Petitioner would submit that the defacto complainant is now aged about 19 years old and she is under the care of her parents, who provided education and she is studying II year M.B.B.S. Course at Sri Manakular Vinayagar Medical College and Hospital. As she is a only daughter, they took love and care and when they came to know about her improper behaviour, they are entitled to have control over the child, but at the ill-advise of third party, she preferred those complaints. But, the trial judge without verifying any records and not giving any opportunity erroneously granted the prohibitory order, which is amounting to clear violation of principles of natural justice. Hence, they prayed to set aside the findings of trial judge.

5. Records perused. On perusal of the order passed by the trial judge, it reveals that without any material evidence, on the face of allegation, interim prohibitory order was granted, as such clearly shows the non-application of mind of Presiding Officer. Therefore, this court is



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inclined to set aside the order passed by the trial judge in Cr.M.P.No. 9919 of 2023 in D.V.C.No. 108 of 2023 and the matter is remanded back to the learned Chief Judicial Magistrate, Pondicherry. The trial judge is directed to give notice to the Revision Petitioners and on hearing both side submissions and also on considering the material evidence, the trial judge is directed to pass orders on merits on giving opportunity to the other side. Accordingly, this Civil Revision Petition is allowed. Liberty is granted to the Revision Petitioners to file their counter objections. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

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

The Chief Judicial Magistrate,
Puducherry.



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T.V.THAMILSELVI, J.

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