



C.R.P.No. 4488 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4488 of 2023

and

C.M.P.Nos. 27005 & 27006 of 2023

1.K.G.Muralikrishnan

2.Mr.Gopal

3.Mrs.Pappammal

.. Petitioners

Vs

Mrs.R.Nivetha

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the petition in D.V.C.No.2 of 2023 on the file of the learned Judicial Magistrate, Ambattur.

For Petitioners : Mr. K. Basker

ORDER

This Civil Revision Petition is filed to strike off the petition in D.V.C.No.2 of 2023 on the file of the learned Judicial Magistrate, Ambattur.

2. The learned counsel for the petitioners submitted that challenging the DVC proceeding, the petitioners have preferred this revision.



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Further submits that that the defacto complainant gave the frivolous complaint against them as if they harassed her, infact, she left the matrimonial home. Hence, they want to quash the DVC proceeding.

3. On perusal of the record, it reveals that already the first petitioner / husband has filed H.M.O.P.No.656 of 2026 before the Sub Court, Ambattur for divorce. As per the allegations of the defacto complainant, all her jewelry and seedhana articles were under the custody of the in-laws but the said fact is totally denied by the revision petitioners stating that when she left the matrimonial home, she took away all her belongings. All those facts needs detailed evidence. Therefore, if at all the allegations are frivolous one, the petitioners are entitled to file appropriate application before the trial Court as per the ratio laid down by the Hon'ble Supreme Court in ***Kunapareddy @ Nookala Shanka Balaji Vs. Kunapareddy Swarna Kumari and another*** reported in (2016) 11 SCC 774.



4. Furthermore, it is like a civil proceeding as per the ratio laid down in **Arul Daniel's** case, the personal appearance of the parties are ordered to be dispensed with except 1st petitioner.

“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).”

5. 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,



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the learned Judicial Magistrate is directed not to insist the appearance of the revision petitioners 2 and 3 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.

6. With the above observation, this Civil Revision Petition is dismissed. Liberty is granted to the Revision Petitioners to work out their remedy before the trial Court by invoking appropriate law to discharge themselves. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

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Index :Yes/No

Neutral Citation :Yes/No

AT

To

The Judicial Magistrate, Ambattur.



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T.V.THAMILSELVI, J.

AT

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