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C.R.P.No.4897 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM:

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

C.R.P.No.4897 of 2023 &
C.M.P.Nos.28904 & 28905 of 2023

1.Sugavanam
2.Amsaveni
3.Anjugam
4.Govindarajan ... Petitioners

Vs.

1.Sree Jayaragavi
2.Suriyan ... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to call for the records in D.V.C.No.21 of 2023 on the file of the Judicial Magistrate I, Attur, Salem.

For Petitioners : Mr.Mumtaj Surya

ORDER

This Civil Revision Petition has been filed to call for the records in DVC.No.21 of 2023 on the file of the learned Judicial Magistrate I, Attur, Salem.

2. Learned counsel for the petitioners submits that the first



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respondent/wife filed a complaint against her husband/second respondent and her in-laws/petitioners. The petitioners have no connection with the disputes raised by the first respondent. The first respondent has not shown any material that she was subjected to domestic violence by the petitioners.

3. Heard the learned counsel for the petitioners and perused the materials available on record.

4. Regarding the petitioners 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).”



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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 respondent 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 petitioners on every hearings, but at the same time, the learned Magistrate is at liberty to direct the petitioners to appear if their appearance is necessary.

6. Since the petitioners have no role in the dispute raised by the first respondent and that the first respondent has not produced any material to substantiate their involvement, the petitioners can very well workout their remedy before the trial court by filing a discharge petition. Accordingly, this civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No

Speaking order/Non-speaking order

Neutral Citations : Yes/No

To

1.The Judicial Magistrate I, Attur, Salem.



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T.V.THAMILSELVI,J.

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