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C.R.P.No.45



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.45 of 2023

and

C.M.P.Nos.417 and 419 of 2023

1.Balasubramaniam

2.Latha

... Petitioners

Vs.

1.Yuvaranjitha

2.B.Parameswaran

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for records relating to the petition in D.V.C.O.P.No.69 of 2022 on the file of the learned Judicial Magistrate, Additional Mahila Court, Erode and quash the same in respect of the petitioners herein.

For Petitioners

: Mr.N.Palani Kumar

ORDER

The Civil Revision Petition has been filed to quash the D.V.C.O.P.No.69 of 2022 pending on the file of the learned Judicial Magistrate, Additional Mahila Court, Erode.



2. The revision petitioners are the parents of the 2nd respondent and the 2nd respondent married the 1st respondent on 19.10.2020 as per Hindu Rites and Customs.

3. On account of several allegations between the 1st respondent/ wife and 2nd respondent/ husband, a Divorce petition was filed by the 1st respondent, which is now pending before the Sub Court, Perunthurai, Erode District.

4. In respect of certain harassment, the 1st respondent/ wife has filed a complaint under the Domestic Violence Act in DVA No.69 of 2022 on the file of the Judicial Magistrate, Additional Mahila Court, Erode. The complaint filed by the 1st respondent/wife is pending for enquiry and the present Civil Revision Petition is filed by the respondents 2 and 3 in the complaint.

5. The learned counsel for the revision petitioners mainly contended that the revision petitioners are the parents of the 2nd respondent/ husband and they are living separately and therefore, they have been unnecessarily implicated in the DVC Proceedings by the 1st respondent/ wife with a view to harass the aged parents of the 2nd respondent/ husband.



6. The revision petitioners are no way connected with the family affairs of the respondents, who are husband and wife and therefore, they must be exonerated from the DVC Proceedings.

7. Perusal of the complaint filed by the 1st respondent/ wife in DVA No.69 of 2022 reveals that there are certain serious allegations of demand of dowry at the time of marriage and the family of the 1st respondent promised to give more jewellery and cash after marriage. The 1st respondent/ wife further raised an allegation that the dispute continued and she was subjected to continuous harassment by the 2nd respondent/ husband at the instigation of the revision petitioners. The background for such harassment of the 1st respondent was narrated in Paragraph No.3 of the DVA complaint and in Paragraph No.12 also, the 1st respondent/ complainant has narrated certain allegations about the revision petitioners.

8. Parents living separately is not a ground to exonerate the parents from the DVC Proceedings. Even in such circumstances, whether there was an instigation on the part of the parents and relatives or not, is to be enquired into by the Court while adjudication. High Court cannot form an opinion merely based on the



statement made in the present Civil Revision Petition. The active instigation or collusion of parents or relatives for harassing the wife must be gone into by the Trial Court only by way of an adjudication. Courts cannot exonerate the parents based on presumptions and assumptions or merely on the ground that they are aged parents.

9. When certain serious allegations are raised against the parents and the relatives in the complaint by the 1st respondent/ wife, then all such allegations are to be enquired into and adjudicated. Mere exoneration on initiation of DVC proceedings is not desirable and it would defeat the very purpose and object of the Domestic Violence Act.

10. Presumption regarding innocence cannot be considered at the initial stage for the purpose of quashing the proceedings. When there is an allegation set out in the complaint by the wife against the parents of the husband and his relatives, then seriousness of the allegation is to be considered with reference to the provisions of the Act and an enquiry is warranted. It is not as if the DVC complaint is to be enquired into between the husband and wife and all other relatives and parents are to be exonerated. Such an idea has not been contemplated under the provisions of the Act and the Courts have to conduct an enquiry to cull



out the truth regarding the allegations and thereafter, dispose of the same on merits and in accordance with law.

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11. In the present case, there are allegations against the revision petitioners in the complaint and therefore, the Court concerned has to conduct an enquiry and dispose of the complaint on merits and in accordance with law and by affording opportunity to all the parties.

12. In view of the facts and circumstances, this Court do not find any acceptable reason for the purpose of quashing the complaint filed by the 1st respondent in DVC Proceedings.

13. With these observations, the Civil Revision Petition stands dismissed.
No costs. Consequently, the connected miscellaneous petitions are closed.

10.01.2023

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

The Judicial Magistrate,
Additional Mahila Court, Erode.



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S.M.SUBRAMANIAM, J.

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