



C.R.P.No.4760 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM:

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

C.R.P.No.4760 of 2023

and

C.M.P.Nos.28260 & 28261 of 2023

1. Gowtham
2. Ramasamy
3. Dinesh Kumar
4. Dhanalakshmi

... Petitioners

-Vs-

Santhiya

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to strike off the complain in D.V.C.No. 5 of 2023 on the file of learned District Munsif cum Judicial Magistrate Court, Annur by allowing this C.R.P.

For Petitioners : Mr. K.Elangovan



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ORDER

This Civil Revision Petition has been filed by the Revision Petitioners praying to strike off the complaint in D.V.C. No.5 of 2023 on the file of learned District Munsif cum Judicial Magistrate, Annur.

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

3. The learned counsel for Revision Petitioners would submit that the respondent initiated the D.V.C. proceedings against her inlaws and her husband. The learned counsel would also submit that within 45 days of marriage, she left the matrimonial home, but now she initiated D.V.C. proceedings by giving false allegations in order to harass them. He would further content that in order to threaten her inlaws, she attempted to commit suicide and she is also not interested in the marital life with the first petitioner, but only to harass them, she initiated the said proceedings. Hence, they prayed to strike off the complaint filed by her.



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4. Records perused. Admittedly, even short span of marital life, she left the matrimonial home, the 1st petitioner husband filed a petition for divorce and after filing of divorce petition, she initiated the D.V.C. proceedings. If at all, the allegations levelled by her against them is false, they are entitled to putforth their contentions before the Magistrate 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 ground or reason to quash the complaint and hence, this Court concludes that the Civil Revision Petition is devoid of merits and the same is liable



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to be dismissed.

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6. Furthermore, with regard to their prayer for dispensing with their personal appearance in C.M.P.No. 28261 of 2023, 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).”

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.



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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 in C.M.P.No. 28260 of 2023 is closed.

20.12.2023

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

To

The District Munsif cum Judicial Magistrate, Annur.



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T.V.THAMILSELVI, J.

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