



C.R.P.No.4831 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2023

CORAM:

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

C.R.P.No.4831 of 2023

and

C.M.P.Nos. 28641 & 28643 of 2023

1. G.V.Vinothkumar
2. G.M.Viswanathan
3. Eswari

... Petitioners

-Vs-

Preetha

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to strike of the domestic complaint in D.V.C.No.4 of 2023 pending on the file of the Learned Judicial Magistrate, Sathyamangalam by allowing the C.R.P.

For Petitioners

: Mr.R.Adithya Shri



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ORDER

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This Civil Revision Petition has been filed by the Revision Petitioners praying to strike off the complaint filed in D.V.C.No.4 of 2023 on the file of learned Judicial Magistrate, Sathyamangalam.

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

3. The learned counsel for Revision Petitioners would submit that the 1st revision petitioner is husband of respondent/defacto complainant. The 2nd and 3rd Revision Petitioners are his parents. The 1st revision petitioner is employed in a private company in the State of Andhra. The defacto complainant raised false allegations against the Revision Petitioners, but, in fact, the Revision Petitioners 2 and 3 have not interfered into the matrimonial life of 1st revision petitioner and the respondent. Hence, they denied the allegations levelled against them and prayed to strike off the proceedings.



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4. Records perused. On perusal of facts, it would reveals that they are entitled to raise their objections before the trial court, without which, the issue cannot be decided. However, all the parties are directed to take all their defence before the trial 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 is devoid of merits and the same is liable 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. 28641 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. Hence, 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



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learned Magistrate is at liberty to direct the revision petitioners 2 and 3 to appear if their appearance is necessary.

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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. 28643 of 2023 is closed.

22.12.2023

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

The Judicial Magistrate, Sathyamangalam.

T.V.THAMILSELVI, J.



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