



C.R.P.(MD).No.1716 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved on	21.08.2023
Pronounced on	21 .12.2023

CORAM

THE HON'BLE MRS. JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P.(MD) No.1716 of 2023

and

C.M.P.(MD) No.8572 of 2023

R.Rama Chokkalingam

...Petitioner/Petitioner

-Vs-

R.Poornima

...

Respondent/Respondent

Prayer: The Civil Revision Petition is filed under Article 227 of Code of Civil Procedure to strike off the proceedings in D.V.C.No.32 of 2023 on the file of the Additional Mahila Court, Dindigul.

For Petitioner : Mr.T.Lenin Kumar

For Respondent : Mr.S.Sarvagan Prabhu

ORDER

This Civil Revision Petition is preferred by the petitioner in D.V.C.No.32 of 2023 on the file of the Additional Mahila Court, Dindigul.



C.R.P.(MD).No.1716 of 2023

2. According to the revision petitioner, the marriage between the petitioner and the respondent took place on 12.09.2012 and the said marriage is second marriage for both of them. The respondent had a female child, namely Deepika, at the time of marriage. However, due to matrimonial dispute between the petitioner and the respondent, they decided to have divorce on mutual consent and the respondent also agreed to receive a sum of Rs.15 lakhs as permanent alimony. On 31.03.2023, the petitioner and the respondent filed a Divorce Petition by mutual consent in H.M.O.P.No.132 of 2023 before the Family Court, Theni. At the time of filing of the said petition, the petitioner tendered two blank cheques towards the permanent alimony to the respondent. The respondent also agreed to return those cheques as soon as the petitioner settled the alimony. As agreed between them, the petitioner agreed to pay permanent alimony of about Rs. 15 lakhs by way of cash. An affidavit was also signed by the petitioner and the respondent on 31.03.2023 and on the same date, when the petitioner prepared to present the petition to waive the cooling period, the respondent failed to appear before the Family Court and absconded.

3. Under these circumstances, the respondent lodged a complaint



C.R.P.(MD).No.1716 of 2023

before the Dindigul North Police Station and enquiry was initiated, which is still pending. Thereafter, the respondent came to the house of the petitioner at Bodinayakkanur on 27.04.2023 and ransacked all his belongings available in the house. Hence, the petitioner lodged a complaint before the Bodinayakkanur Town Police Station and CSR was also registered on 31.05.2023. To harass the petitioner with baseless allegations, the respondent also foisted a complaint before the District Crime Branch, Dindigul alleging that the petitioner borrowed a loan from the respondent and issued two cheques as security for the same and the same were dishonored when she presented it for collection. This cooked up story by the respondent was with an intention to get money from the petitioner. She then initiated the D.V.C case was posted on 19.07.2023 for counter and due to the above vexatious petition, the petitioner is put to great hard ship.

4. The learned counsel appearing for the petitioner would submit that the trial Court ought to have rejected the impugned complaint as the respondent has preferred the same with malafide intention to extract money from the petitioner. After filing the petition under mutual consent, the respondent filed the present complaint by suppressing the above fact. He



C.R.P.(MD).No.1716 of 2023

would submit that the present complaint before the Additional Mahila Court, Dindigul is only a counter blast to the complaint preferred by the petitioner against the respondent for ransacking his belongings in his house. Hence, the learned counsel would pray to quash the impugned proceedings in D.V.C.No.32 of 2023 on the file of the Additional Mahila Court, Dindigul.

5. On the other hand, the learned counsel appearing for the respondent would submit that the petitioner had physically and mentally tortured the respondent-wife. The petitioner also retained the jewels belonging to the respondent-wife and also continued to harass her demanding a sum of Rs.20 lakhs for commencing his business. Moreover, the petitioner compelled the respondent to work in his factory. At that time, the respondent met with an accident and spent a sum of Rs.5 lakhs for undergoing surgery on her hand. Even thereafter, the petitioner continued to harass the respondent for money. The petitioner failed to maintain the respondent and her daughter and therefore, she was compelled to take tuition to meet her daily expenses. When the respondent demanded the petitioner to repay the money borrowed from her, the petitioner, in reply stated that unless she gives her consent for divorce, he would not repay the money and



C.R.P.(MD).No.1716 of 2023

give back the jewels to the respondent. Hence, the respondent was compelled to give her consent for divorce. The petitioner also informed the respondent that at the time of signing the divorce petition, he would repay the amount to her. But, to the contrary, the petitioner tendered two cheques for Rs.20,60,000/-. The above cheques were returned as insufficient fund on 04.05.2023. When the respondent asked for jewels, the petitioner replied that at the time of trial, he would return it. However, the petitioner failed to return money and the jewels belonging to the respondent. Due to the attitude of the petitioner, the respondent and her child were forced to live in a rented house by paying rent Rs.10,000/- per month. Since the respondent has no means of income, she is unable to maintain herself and struggling for life. However, the petitioner is having sufficient income to maintain her and hence, she filed the above D.V.C complaint to direct the petitioner to pay a sum of Rs.25,000/- per month and to return her jewels and also to repay the amount borrowed from her to the tune of Rs.22,24,500/- and to pay the monthly rent to the house where the respondent is residing and also to direct the petitioner not to indulge in any domestic violence against the respondent.

6. Therefore, the learned counsel for the respondent would submit that since there are sufficient materials in the complaint against the petitioner to



C.R.P.(MD).No.1716 of 2023

invoke the provisions under Domestic Violence Act, the proceedings initiated in D.V.C.No.32 of 2023 requires adjudication and therefore, the same shall not be quashed.

7. Heard the learned counsel on both sides and perused the materials on record.

8. It is not in dispute that the marriage between the petitioner and the respondent was solemnized on 12.09.2012 and there was a matrimonial discord between them. The contention of the petitioner is that the respondent agreed to have divorce by mutual consent and in order to extract money from the petitioner, she preferred a complaint in D.V.C.No.32 of 2023 is without any materials. Therefore, the same is liable to be quashed.

9. On the other hand, the specific case of the respondent is that she was subjected to physical and mental harassment by the petitioner and above all, the petitioner has borrowed money from the respondent and the jewels given to the respondent, at the time of marriage, is still in the custody of the



C.R.P.(MD).No.1716 of 2023

petitioner. At the time of signing the divorce petition, the petitioner promised to repay the amount, jewels and tendered two cheques for the same. However, the above cheques were returned as insufficient funds, when it was presented for collection. The further submission on the side of the respondent is that she is presently residing in a rented house and since she is unable to maintain herself, she was constrained to file the above complaint before the Additional Mahila Judge, Dindigul in D.V.C.No.32 of 2023 seeking maintenance and also for return of her money, jewels and for a direction that the petitioner shall not subject her to harassment.

10. On perusal of the complaint lodged by the respondent-wife before the Additional Mahila Court, Dindigul, it is seen that there are several allegations made against the petitioner herein. Therefore, the above allegations cannot be brushed aside. There are allegations that the respondent was subjected to physical and mental harassment, and moreover, it is alleged that the petitioner failed to maintain the respondent and also failed to repay the money and jewels belonging to the respondent.



C.R.P.(MD).No.1716 of 2023

11. Therefore, the above complaint cannot be quashed at the instance of the petition, since it requires adjudication. Accordingly, this Civil Revision is dismissed. However, a direction is given to the learned Additional Mahila Court, Dindugul to dispose the matter within a period of 6 (six) months without any unnecessary adjudications. No costs. Consequently, connected miscellaneous petition is closed.

21.12.2023

mac

Index: Yes/No

Speaking Order : Yes/No

To
The Additional Mahila Court, Dindigul



WEB COPY



C.R.P.(MD).No.1716 of 2023

K.GOVINDARAJAN THILAKAVADI,J.

mac

order made in

C.R.P.(MD) No.1716 of 2023

C.M.P.(MD) No.8572 of 2023

21.12.2023