



C.R.P.(MD) No.1715 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2023

CORAM:

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

C.R.P.(MD) No.1715 of 2023

and

C.M.P(MD) No.8564 of 2023

N.Raja Neelamegam

... Petitioner

Vs.

R.Geetha

... Respondent

Prayer :- Petition filed under Article 227 of the Constitution of India, to set aside the order in Cr.M.P.No.736 of 2021 in D.V.C.No.76 of 2016, dated 09.06.2023 on the file of the learned Judicial Magistrate, Additional Mahila Court, Madurai.

For Petitioner : Mr.N.Sundaresan

For Respondent : No appearance

ORDER

The above civil revision is preferred against order passed in Cr.M.P.No.736 of 2021 in DVC No.76 of 2016 dated 09.06.2023 on the



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file of Additional Judicial Magistrate, Mahila Court, Madurai.

2. The respondent/wife has filed an application under Sections 12, 19(8) 22 of Protection of Women From Domestic Violence and the same is pending before the learned Judicial Magistrate, Additional Mahila Court, Madurai, in DVC No.76 of 2016. According to the revision petitioner, the said application has been filed after lapse of 16 years of marriage and nearly four years after the respondent/wife left the matrimonial home in the year 2013. The said DVC petition is filed with *mala fide* intention only to harass the petitioner/husband. The respondent/wife had already filed M.C.No.27 of 2014 in which she is received maintenance amount of Rs.7,000/- per month. The further contention of the revision petitioner is that the respondent/wife has furnished a false address at Madurai at the time of filling the Domestic Violence Case. The intention of the respondent /wife is only to bring the case to suit her convenience. The respondent/wife also admitted during her evidence that neither she nor her parents are residing at Madurai and also admitted the incidents as alleged in the DV petition never happened



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at Madurai. The respondent/wife had further admitted that she is residing at Periyakulam with her mother and there is no specific reason attributed by the respondent/wife to file the above DV petition in the Court at Madurai. His further contention is that the petitioner and the respondent never live as husband and wife at Madurai at any point of time. The main petition is only an abuse of process of law harassing the petitioner herein. Therefore, the petitioner filed Cr.M.P.No.736 of 2021 before the learned Judicial Magistrate, Additional Mahila Court, Madurai, to reject the main case in DVC No.76 of 2016 as not maintainable. However, the learned Magistrate after perusing the averments made in the petition and in the counter affidavit, dismissed the said application. Against which, the present revision is preferred.

3. The learned counsel appearing for the revision petitioner would submit that any petition filed under Production of Women from Domestic violence should be in the jurisdiction where the alleged incident has taken place and it cannot be filed at the whims and fancies of the petitioner by choosing some fictitious address created for the purpose of



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case. He would further submit that the learned Judicial Magistrate, Additional Mahila Court at Madurai had no territorial jurisdiction to entertain the complaint lodged by the respondent/wife. Therefore, no cause of action arose within the jurisdiction of the said Court where complaint was filed. He would further submit that on the basis of the facts narrated in the complaint it is understood that no part of cause of action arose in Madurai to invoke the jurisdiction of the Judicial Magistrate Court at Madurai to deal with the matter. Therefore, the proceedings pending on the file of the learned Judicial Magistrate, Additional Mahila Court, Madurai, are liable to be quashed. To support his contentions, he has relied upon the decisions reported in **2019 2 AIR (Bom)(R)(Cri) 625, 2008 0 Supreme (SC)585 and 2004 (6) Supreme 207.**

4. Heard and records perused.

5. It is not in dispute the case in DVC No.76 of 2016 is pending on the file of the learned Judicial Magistrate, Additional Mahila Court,



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Madurai. In the evidence deposed by the respondent/wife before the said proceedings on 04.09.2019, the respondent/wife has categorically admitted that the marriage was solemnized only at Periyakulam on 14.09.1997 and thereafter, she was living with her husband at Kumbakonam and at no point of time neither she nor the petitioner husband were residing at Madurai and the alleged incidents narrated in the complaint never took place at Madurai.

6. In the judgment referred by the learned counsel for the petitioner in *Bhura Ram and others vs State of Rajasthan and another* reported in *2008 0 Supreme (SC) 585*, in which it is held that cause of action having arisen within jurisdiction of Court where offence was committed could not be tried by complaint where no part of offence was committed. On the basis of factual scenario disclosed by complainant in complaint inevitable conclusion is that no part of cause of action in Rajasthan and Magistrate concerned has no jurisdiction to deal with matter.

7. Further in the judgment referred by the learned counsel for the



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petitioner in ***Y.Abraham Ajith & Ors vs Inspector of Police, Chennai & Anr*** reported in ***2004 6 Supreme 207***, the Hon'ble Supreme Court has held that no cause of action arose within jurisdiction of Court where complaint was filed. Expression "cause of action" concerned Magistrate at Chennai had no jurisdiction to deal with the matter. Proceedings were liable to be quashed and complaint to be returned to be filed in appropriate Court, if so chosen.

8. In the present case, admittedly no cause of action arose at Madurai which is evident from the evidence of the respondent/wife itself. The aforesaid legal principles are applied to the factual situation disclosed by the complainant in the complaint petition, the inevitable conclusion is that no part of cause of action arising Madurai. Therefore, the concerned Magistrate has no jurisdiction to deal with the matter. Hence, the order dated 09.06.2023 passed by the learned Judicial Magistrate, Additional Mahila Court, Madurai, in Cr.M.P.No.736 of 2021 is set aside and the proceedings pending before the learned Judicial Magistrate, Additional Mahila Court, Madurai, in DVC No.76 of 2016



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are quashed. The complaint shall be returned to the respondent/wife. If she chooses, she filed the same before the appropriate Court to be dealt with in accordance with law. Accordingly, this civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

01.09.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

The Judicial Magistrate,
Additional Mahila Court,
Madurai.



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K.GOVINDARAJAN THILAKAVADI, J.

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