



CRP(PD)(MD)No.87 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.01.2023

CORAM:

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**CRP(PD)(MD)No.87 of 2023**  
**and**  
**CMP(MD)Nos.425 and 426 of 2023**

Sudalaikumar

... Petitioner

versus

1. S.Muthumareeswari

2. Minor Hari

(Rep. by his mother/1<sup>st</sup> respondent)

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records relating to D.V.C.No.12 of 2022 pending on the file of the learned Judicial Magistrate, Rajapalayam and quash the same.

For Petitioner : Mr.S.Chellapandian



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## **ORDER**

This Civil Revision Petition is filed as against the proceedings initiated by the first respondent herein in D.V.C.No.12 of 2022 before the learned Judicial Magistrate, Rajapalayam. The petitioner herein is the brother-in-law of the first respondent.

2. The learned counsel appearing for the petitioner submits that the petitioner is settled in Mumbai along with his family twenty years back and he never came to Tamil Nadu in the last five years and he never shared household with the first respondent. Since the petitioner is the brother-in-law of the first respondent, he is impleaded as a respondent in the Domestic Violence Proceedings and in the absence of any averment about the sharing of household, at any point of time, the first respondent shall not come under the purview of “Aggrieved Person” as stipulated under Section 2(a) of the D.V.Act. He further submits that the averment made in the complaint that the petitioner



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herein came to Tamil Nadu from Mumbai on 01.09.2020 and harassed the first respondent is utter falsehood. During that period, due to pandemic, there was a lock-down and there was no transport facility for travelling from Mumbai to Tamilnadu. While so, these averments have been created for roping this petitioner to harass him and his family members.

3. This Court considered the submissions made by the learned counsel appearing for the petitioner.

4. Though the petitioner has raised a ground of jurisdiction, he has not substantiated the same as to how the concerned Judicial Magistrate is not having the jurisdiction to take up the complaint of the first respondent. The first respondent has also made a specific averment in the complaint that the petitioner along with his family members came to her house on 01.09.2020 at about 3.00 p.m. under the guise of compromise and compelled her to divorce her husband and



5. Further, Section 27 of the Protection of Women from Domestic Violence Act, 2005, deals with the jurisdiction, which reads as follows:

(c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act (2) Any order made under this Act shall be enforceable throughout India.



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6. From the reading of the above said provision, it is clear that the petition under the Domestic Violence Act can be filed in a Court where the “person aggrieved” permanently or temporarily resides or carries on business or is employed.

7. In the present case, the first respondent herein is residing along with her parents at Rajapalayam. Therefore, the learned Judicial Magistrate, Rajapalayam, is the competent Court to entertain the complaint filed by the first respondent under Domestic Violence Act. Therefore, the objection raised by the petitioner that the learned Judicial Magistrate, Rajapalayam, is not having jurisdiction, cannot be accepted.

8. The petitioner claims that he was residing in Mumbai for the past 20 years along with his family and the first respondent in order to harass him, filed the above petition under Domestic Violence Act



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before the learned Judicial Magistrate, by adding him unnecessarily as a party to the proceedings. If the petitioner is having any grievance that he has been unnecessarily added as party to the proceedings, it is open to him to file an application before the learned Magistrate to delete his name from the proceedings.

9. Accordingly, the Civil Revision Petition is disposed of in the following terms:

(i) If the petitioner is having any grievance that he has been unnecessarily added as a party to the proceedings, it is open to him to file an application before the learned Magistrate to delete his name and if any such application is filed, the learned Magistrate shall decide the same, as per the decision of the Hon'ble Supreme Court in ***Kunapareddy v. Kunapareddy Swarna Kumari***, reported in ***(2016) 11 SCC 774***.

(ii) If the petitioner is represented through a counsel, the learned Magistrate shall not insist on the personal appearance of the petitioner. However, the petitioner shall appear before the Court as and when his



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presence is required by the Court.

(iii) The learned Magistrate is directed to dispose of D.V.C.No.12 of 2022 as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order.

No costs. Consequently, connected miscellaneous petitions are closed.

**12.01.2023**

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

1. The learned Judicial Magistrate,  
Rajapalayam.



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**B.PUGALENDHI, J.**

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