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C.R.P.(PD)No.446 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

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THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.446 of 2023
and
C.M.P.Nos.3703 & 3705 of 2023

M.Subramaniam

.. Petitioner

Vs.

K.Bharathi

.. Respondent

Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to strike off the complaint in D.V.O.P.No.5 of 2021 on the file of the Judicial Magistrate Court at Omalur, Salem District.

For Petitioner : Mr.MA.P.Thangavel

For Respondent : Ms.S.Usha Rani
Legal Aid Counsel

ORDER

The civil revision petitioner seeks quashing of the complaint in D.V.O.P.No.5 of 2021 on the file of the learned Judicial Magistrate at Omalur.



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2. There is no dispute that the petitioner/husband and the respondent/wife entered into matrimony on 26.02.2020. The marriage was solemnized at the famous Arulmigu Sri Bannariamman Temple in Sathyamangalam, Erode District. Subsequent to the marriage, since the parties developed disputes and differences, the husband is said to have lodged a complaint with the Inspector of Police, All Women Police Station, Gobichettipalayam.

3. The wife lodged a complaint with the authorities under the Domestic Violence Act and it was taken on file as D.V.O.P.No.5 of 2021. Aggrieved by this taking on file, the present civil revision petition has been presented before me.

4. Heard Mr.Ma.P.Thangavel, appearing on behalf of the petitioner and Ms.S.Usha Rani, legal aid counsel appointed by this Court to represent the respondent/wife.

5. Mr.Ma.P.Thangavel would state that the entire proceeding is an



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abuse of process of law relying upon two aspects. His first plea is that the respondent/wife was already married to one P.Rangaraj on 22.08.2010. He would state that this is evident from the order and decreetal order of the learned Family Judge at Salem in F.C.O.P.No.202 of 2013. His argument is that the respondent/wife had married one Rangaraj on 22.08.2010, and without snapping that relationship in the manner known to law, she married the civil revision petitioner on 26.02.2020. He would therefore plead that as the second marriage itself is invalid, the question of filing of Domestic Violence Complaint does not arise.

6. The second plea that he would urge is that the respondent/wife had given an affidavit stating that she will not interfere with the life of the civil revision petitioner pursuant to the complaint that was lodged at All Women Police Station at Gobichettipalayam on 24.12.2020. Instead of sticking to her solemn affidavit, Mr.Ma.P.Thangavel would point out that the respondent/wife has filed a Domestic Violence Incident Report on 29.07.2021. He would state that in the light of these two circumstances, the revision deserves to be allowed and the proceedings be quashed.

7. Insofar as his first plea is concerned, the definition of Domestic



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Violence is found under Section 3 of the Act. If two persons are in a domestic relationship and the petitioner/husband is alleged to have endangered the life, health, safety and limb, and has indulged in physical, sexual, verbal, emotional or economic abuse, it satisfies the requirements of Section 3(a) of the Act.

8. The Domestic Violence Incident Report that has been filed in the present case shows that on 08.06.2020 at about 10 P.M., the petitioner/husband had not only verbally abused the respondent/wife, and had also physically assaulted her. Therefore, these allegations comply with the requirements of Section 3 of the Protection of Women from Domestic Violence Act, 2005.

9. Insofar as the second plea of Mr.Ma.P.Thangavel that the petitioner and the respondent were married when the marriage of the respondent was subsisting with one P.Rangaraj is concerned, I have to refer to the definition under Section 2(f) of the Protection of Women from Domestic Violence Act, 2005.



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10. The said Section 2(f) of said Act requires that the two persons should live in a relationship in a shared household either by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or family members living together in a joint family. The said definition is wide enough to include even live-in relationships. The said Act does not bar the abused wife from lodging a complaint against the husband for the mere reason that she had been in a relationship with another person. The purpose of the said Act is to bring to the book persons who have abused the wife or the female who is in a relationship similar to a marriage. The said Act does not require a marriage for the purpose of lodging a complaint.

11. It is not in dispute that the petitioner and the respondent were married on 26.02.2020 at Arulmigu Sri Bannariamman Temple in Sathyamangalam, Erode District. This proves that the parties were living in a relationship akin to a marriage. The mere fact that the wife was already married does not give license to the husband to inflict abuse upon her, and utilize her previous subsisting marriage as a ground to escape from his activities. Having treated her as his wife, he necessarily has to answer to the Court on the allegations made by the wife. Therefore, I am not convinced



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with the argument of Mr.Ma.P.Thangavel that since the wife was already married to one P.Rangaraj, she is not entitled to maintain a plaint under the Domestic Violence Act.

12. Turning to the next point of the affidavit that has been filed by the wife, I have to point out that an affidavit is not an evidence. The said affidavit requires proof, and during the course of cross examination of the respondent, it is always open to the petitioner to confront her with this affidavit, and prove to the Court that the respondent/wife had condoned all the acts, and decided to part ways. As the affidavit requires proof, I am not in a position to entertain it as a ground to quash the DVC proceedings especially while I am exercising the power of revision under Article 227 of the Constitution of India.

13. Therefore, the Civil Revision Petition stands dismissed. No costs. The connected Civil Miscellaneous Petitions are closed.

14. At this stage, Mr.Ma.P.Thangavel would submit that if the parties



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are referred to Mediation, there is a possibility that the entire matter will be settled amicably. This suggestion of Mr.Ma.P.Thangavel sounds reasonable.

Therefore, the learned Judicial Magistrate at Omalur shall consider referring the parties to the Mediation to the District Mediation Centre at Salem or to the Taluk Mediation Centre at Omalur, if it exists, for the purpose of reaching a settlement between the parties.

09.07.2024

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No



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V. LAKSHMINARAYANAN, J.

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To

The Judicial Magistrate Court at Omalur,
Salem District

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and

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