



C.R.P.No.1110 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.1110 of 2024

1.T.V.Manjula Bai

2.T.S.Sneha

... Petitioners

Vs

T.S.Suvarna

... Respondent

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 26.12.2023 passed by the Chief Judicial Magistrate at Puducherry in Un.D.V.C.No. /2023.

For Petitioner : Mr.E.V.Chandru

ORDER

The petitioners as complainant filed a Domestic Violence complaint before the Chief Judicial Magistrate, Puducherry, which was not entertained, returned as not maintainable and rejected the complaint by order dated 26.12.2023. Against which the present Civil Revision

Page No: 1/8



C.R.P.No.1110 of 2024

Petition.

WEB COPY

2. The contention of the petitioner is that the first petitioner/mother having two sons namely her son Sanjeet and younger son Sampathraj, the second petitioner is the wife of the second son Sampathraj and the respondent is the wife of Sanjeet/elder son. The first petitioner is residing along with her aged husband her sister-in-law, who is aged about 83 years and two sons with her daughter-in-laws and grand children. The elder son, Sanjeet suffered from a Muscular Dystrophy disease and became a wheel chair dependent with 90% disability from 23.12.2015. Thereafter, the attitude of the respondent drastically changed with her husband and other family members including the petitioners and she started to give several complaints against them and they were called by the Police for enquiry and for the reason complaints lodged against him with ulterior motive to extract the maximum monetary gains and property from the petitioners. In the process, the petitioners being harassed, humiliated and subjected to cruelty. Narrating these facts, a complaint filed along

Page No: 2/8



C.R.P.No.1110 of 2024

WEB COPY

with supporting documents under Domestic Violence Act seeking protection order and prohibition from the respondent not to harass the petitioner, her husband and aged sister-in-law under Section 18 and 18(f) of the Act. Further to direct SHO, Grand Bazaar Police Station, Pondicherry to assist in implementation and execution of the order of this Court. This complaint filed on 27.11.2023, kept pending for maintainability and on 26.12.2023 on a wrong notion recording that the application for maintainability filed by mother-in-law against the daughter-in-law not maintainable and recorded the intention of the legislature in bringing Domestic Violence Act was to protect the bride who came to the house as a new member of the family and in case of harassment by her in-laws, domestic violence would apply. The Lower Court further observed that on a reading of the complaint, it found that the petitioner's complaint appears to be focused as a defence to the complaint made by the respondent against the first petitioner's husband and elder son Vijayarao and Sanjeet. Further recorded though the petitioners have been subjected to some sufferings and cruelty at

Page No: 3/8



C.R.P.No.1110 of 2024

WEB COPY

the hands of the respondent, the remedy is to approach the Court by invoking the general penal law and not by invoking Section 12 of the Domestic Violence Act.

3. The learned counsel appearing for the petitioners submitted that this observation would confirm that the Lower Court on a wrong notion without understanding the application and march of law returned the complaint as not maintainable is not proper. In support of his contention, he relied on the judgment of the Hon'ble Apex Court in the case of in the case of ***Hiral P.Harsora & Ors., vs. Kusum Narottamdas Harsora & Ors.***, reported in ***2016 (10) SCC 165***, wherein the Hon'ble Apex Court held that violence of Section 12 of the Domestic Violence Act arise in cases of subjecting to cruelty and the cruelty defined under Section 498 is both physical and mental. Further, the Hon'ble Apex Court held that Section 12 of DV Act is akin to Section 498A of IPC and further proceedings against the female members under Domestic Violence Act can be filed.

4.The learned counsel for the petitioners further relied on the

Page No: 4/8



C.R.P.No.1110 of 2024

WEB COPY

judgment of the Hon'ble Supreme Court in the case of ***Rupali Devi vs. State of Uttar Pradesh & Ors., in*** Criminal Appeal No.71 of 2012, wherein the Hon'ble Apex Court observed that the protection of woman from Domestic Violence Act, the object behind its enactment is to provide a civil remedy to victims of domestic violence as against the remedy in criminal law, which is what is provided under Section 498A of the Indian Penal Code drawing parallel between the Domestic Violence Act under Section 12 & 498A of IPC for the subjecting the victim of under cruelty.

5.Further referring to the judgment of the Bombay High Court in the case of ***Mrs.Zeba Mohasin Pathan & Anr., vs. The State of Maharashtra in W.P.No.5185 of 2018, dated 05.01.2024***, wherein the Bombay High Court held that a complaint by a mother-in-law under Domestic Violence Act is maintainable against her daughter-in-law. This is based on the Apex Court judgment in the case of ***Hiral P.Harsora & Ors.,*** referred supra. Thus he prayed that the order

Page No: 5/8



C.R.P.No.1110 of 2024

passed by the Lower Court is liable to be set aside and direct the Chief Judicial Magistrate to consider the complaint of the petitioners following the above judgments and to consider the case in its totality and to take the complaint on file and proceed with the case, to its logical end.

6.Considering the submissions of the learned counsel appearing for the petitioner and following the judgments of the Hon'ble Apex Court in the case of **Hiral P.Harsora & Ors.**, referred supra, wherein the Hon'ble Apex Court held that a female member in a family can be proceeded for domestic violence case and in the case of **Rupali Devi** referred supra, wherein the Apex Court held parallel and commonality in the domestic violence complaint under Section 12 and 498A of IPC. The Bombay High Court in the case of **Mrs.Zeba Mohasin Pathan & Anr.**, referred supra, held that the mother-in-law lodged a complaint under the DV act against the daughter-in-law is maintainable.



C.R.P.No.1110 of 2024

WEB COPY

7. In the case on hand, on the plain reading of the complaint, it is clear that the petitioners subjected to cruelty and therefore, this Court is of the view that a complaint made by the petitioners cannot be rejected by the Lower Court at the threshold without any enquiry. It is not in dispute that the cruelty can be both mental and physical the sufferings and pain of the petitioners would fall under cruelty.

8. In view of the above, this Court is inclined to set aside the impugned order and direct the Lower Court to consider the case afresh and pass order on merits and in accordance with law.

9. In fine, this Civil Revision Petition is allowed on the above terms. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

31.07.2024

Pbn

Index : Yes/No

Speaking order : Yes/No

Neutral Citations : Yes/No

Page No: 7/8



WEB COPY



C.R.P.No.1110 of 2024

M.NIRMAL KUMAR,J.

Pbn

To

The Chief Judicial Magistrate, Puducherry

C.R.P.No.1110 of 2024

31.07.2024

Page No: 8/8