



C.R.P.No.831 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2024

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.831 of 2022
and CMP.No.4203 of 2022

1.R.Karthik
2.R.Selvakumari
3.D.Ramarathenam

... Petitioners

Vs

Sowmiya

... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the D.V.C.No.12 of 2020 on the file of the Judicial Magistrate cum District Munsif Court, Madhavaram, Chennai.

For Petitioners : Mr.C.P.Sivamohan

For Respondent : Mr.R.K.Kalpana

ORDER

This civil revision petition challenges the proceedings initiated by the wife in D.V.C.No.12 of 2020 on the file of the Judicial Magistrate cum District Munsif Court, Madhavaram.



C.R.P.No.831 of 2022

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2. The petitioners before me are the husband, mother-in-law and father-in-law of the sole respondent. The petitioners state that none of the requirements of the Domestic Violence Act are made out in the complaint.

3. A perusal of the complaint dated 04.11.2019 which has been given to the District Protection Officer, enclosed at Page Nos.25 to 28 of the typedset of papers, would show that necessary allegations of domestic violence have been made out. The domestic relationship between the first petitioner and the sole respondent is not in dispute. Further while dealing with the D.V.C. petition for quash, I have to take the complaint at its face value.

4. Mr.C.P.Sivamohan, learned counsel appearing for the petitioners, upon placing reliance on the judgment of the Supreme Court in ***Inderjit Singh Grewal Vs State of Punjab, (2011) 12 SCC 588***, would submit that the present complaint should be quashed.



5. A careful perusal of the said judgment would show that was a case where the relationship between the husband and wife was terminated by virtue of an order passed under Section 13B of the Hindu Marriage Act, and their marriage was dissolved by due process of Court. Thereafter, the wife had attempted to give a complaint under Domestic Violence Act challenging the decree of divorce contending that it was obtained by playing fraud on the Court. The Supreme Court has held that as long the decree of divorce subsists, the complaint initiated under the provisions of Domestic Violence Act is not maintainable. It further held for quashing the complaint, the Court necessarily has to decide the complaint on the face value of the allegations. Considering the factual matrix in ***Inderjit Singh Grewal*** case, the Supreme Court quashed the complaint.

6. Mr.C.P.Sivamohan would contend that divorce proceedings have been initiated against the parties herein, but they have not culminated in divorce.

7. The situation in the present case is not similar to the one relied on by the petitioner in ***Inderjit Singh Grewal*** case. As stated above, *prima facie* I



C.R.P.No.831 of 2022

have to go forward taking the complaint to be true, and if the complaint makes out a case of domestic violence as contemplated under Section 3 of the Domestic Violence Act, I am restrained from quashing the proceedings.

8. In the light of the above, I am not inclined to nip the proceedings at its bud. However, taking into consideration that the second and third petitioners are the mother-in-law and father-in-law of the sole respondent, who are aged 54 and 62 years respectively, their appearance in all hearings is dispensed with, unless and until their presence is necessarily required in the DVC proceedings, and in all other situations, they shall be represented through their counsel.

9. In the result, the revision petition stands dismissed. No costs.

29.04.2024

Index:Yes/No
Internet : Yes /No
Speaking order / Non-speaking order
ds



C.R.P.No.831 of 2022

To:

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- 1.The District Munsif
Chengalpattu.
- 2.The Section Officer
VR Section
High Court, Madras.



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C.R.P.No.831 of 2022

V.LAKSHMINARAYANAN,J.

ds

C.R.P.No.831 of 2022

29.04.2024