



WEB COPY



C.R.P(PD)No.1129 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.06.2024

CORAM:

THE HON'BLE MR. JUSTICE P.DHANABAL

C.R.P(PD)No.1129 of 2022
and C.M.P.No.5844 of 2022

1.Viswanathan
2.Saraswathi
3.Sadhasivam
4.Vijayalakshmi

... Petitioners

Vs.

1.Vijaya

... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records pertaining to D.V.C.No.07 of 2017 pending on the file of the District Munsif Cum Judicial Magistrate Court, Perundurai, and strike off the names of the petitioners on the ground of abuse of process of law by allowing the present Civil Revision Petition.

For Petitioners : Mr.M.Guruprasad

For Respondent : No appearance

ORDER

This petition has been filed to strike off the names of the petitioners in D.V.C.No.07 of 2017, pending on the file of the District Munsif Cum Judicial Magistrate Court, Perundurai.



2. According to the petitioners, the respondent is the wife of the 1st petitioner and that the other petitioners are the in laws of the respondent. The respondent herein has filed a petition in D.V.C.No.07 of 2017 and the same is pending on the file of the District Munsif Cum Judicial Magistrate Court, Perundurai. The said petition is filed only to harass the petitioners to wreck vengeance against the petitioners. The entire averments in the proceedings are fabled fact and a tissue of false hood. The trial Court ought not to have taken cognizance of the complaint since no specific allegation is made out as against these petitioners. There are general maliciousness allegations made against the petitioners, who are no way connected to the respondent. The marriage itself was not solemnized between the 1st petitioner and the respondent. The respondent and the 1st petitioner are residing at different places and at no point of time they were all residing together and there is no domestic relationship at all between them. The allegations levelled in the domestic violence report is an attempt to camouflage the entire family reputation by giving false statements. The petitioners never demanded any dowry from the respondent or her parents. The 1st petitioner has already filed a petition in H.M.O.P.No.47 of 2017 before the Sub Court, Perundurai and in order to wreck vengeance for that petition, the present complaint has been lodged.



Therefore, continuance of the complaint and the proceedings emanating there from would tantamount to malafide and abuse of the process of law.

Therefore, the names of the petitioners have to be struck off.

3.The learned counsel for the petitioners would contend that the respondent has filed a petition before the District Munsif Cum Judicial Magistrate Court, Perundurai in D.V.C.No.07 of 2017 with false allegations and there was no marriage solemnized between the 1st petitioner and the respondent and they are residing separately at different places. There is no domestic relationship between the parties. Already the 1st petitioner filed a H.M.O.P.No.47 of 2017, on the file of the Sub Court, Perundurai for divorce. and the present petition is filed only as a counter blast for the said proceedings. The continuance of proceedings is only an abuse of process of law, therefore, the petitioners have filed the present petition and the petition may be allowed.

4.Even though notice was served on the respondent and the name was also printed in the cause list, there is no representation for the respondent.



5.This Court heard the submissions of the learned counsel for the petitioner and perused the records.

6.According to the petitioners there is no marriage solemnised between the 1st petitioner and the respondent and there is no domestic relationship between them. Already the petitioner has filed a petition in H.M.O.P.No.47 of 2017, on the file of the Sub Court, Perundurai. The present petition is filed by the respondent only to wreck vengeance against these petitioners. Therefore, the filing of the present petition itself is an abuse of process of law.

7.The grounds raised by the petitioners are to be agitated the trial Court, since the allegations are serious in nature and it needs elaborate trial. Therefore, at this stage, the grounds raised by the petitioners cannot be decided without oral evidence. Therefore, this Court is inclined to dismiss this petition by granting liberty to the petitioners to raise all their defences before the trial Court and there is no any valid ground to invoke the jurisdiction under Article 227 of Constitution of India. Therefore, this petition has no merit and this has to be dismissed.



8.At this juncture, the learned counsel for the petitioners requested this Court that the personal appearance of the petitioners 2 to 4 may be dispensed with.

9.In this context, the petitioners can approach the trial Court by filing an appropriate application and on such application if any, the trial Court has to consider the same on its own merits taking into consideration the age of the petitioners 2 to 4 and other circumstances.

10.In the result, this Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

11.06.2024

kas

Index : Yes/No
Neutral Citation

To
1.The District Munsif Cum
Judicial Magistrate Court
Perundurai

2.The Sub Court
Perundurai



WEB COPY

kas



C.R.P(PD)No.1129 of 2022

P.DHANABAL, J.

C.R.P(PD)No.1129 of 2022
and C.M.P.No.5844 of 2022

11.06.2024