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C.R.P. No. 1220 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2024

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THE HONOURABLE MR. JUSTICE P.DHANABAL

C.R.P. No. 1220 of 2022
and C.M.P. No. 6565 of 2022

1. R.Sujatha

2. J.Manoj Kumar

... Petitioners / Respondents 4 & 5

Vs.

Poornima

... Respondent / Petitioner

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, 1950, to strike off the complaint in D.V.C. No. 4 of 2022 on the file of the Judicial Magistrate Court, Additional Mahila Court, Udthagai, The Nilgiris.

For Petitioners : Mr. T.Shanmugam

For Respondent : Mrs. A.Indirani

ORDER

This Civil Revision Petition has been preferred as against the proceedings in D.V.C. No. 4 of 2022 on the file of the Judicial Magistrate, Additional Mahila Court, Udthagai, The Nilgiris, wherein, the respondent herein filed a complaint under the Protection of Women from Domestic



Violence Act, 2005 and the same was taken cognizance by the Trial Court in D.V.C. No. 4 of 2022. Against the same, the present Civil Revision Petition is filed.

2. According to the petitioners they are in-laws of the respondent. The respondent is wife of the 1st petitioner's brother and the 2nd petitioner is the husband of the 1st petitioner. The petitioners are residing at No.305, Ramani's Mayuri, Chinnavedampatti, Coimbatore, whereas, the respondent is residing at Old Attupoil, Emerald Post, Kunha Taluk, The Nilgiris. There is a family dispute pending between the respondent and the brother of the 1st petitioner and thereby, without any valid reason, she included the names of the petitioners in the D.V.C. No. 4 of 2022. In fact, there is no any domestic violence committed by the petitioners and they have been falsely implicated in this case. Therefore, taking cognizance as against the names of the petitioners by the Trial Court is liable to be struck off from the complaint.

3. The learned counsel appearing for the petitioners would contend that there is no serious allegations and no materials to implead the petitioners as respondents in the domestic violence petition. They are in-laws to the respondent and without any documents and without any valid reasons, the



petitioners names have been included in this complaint as there is a matrimonial dispute pending between the respondent and her husband, who is the brother of the 1st petitioner. The 2nd petitioner is the husband of the 1st petitioner and they are residing elsewhere not in the petition mentioned address itself. Therefore, the Trial Court without considering the same, has taken cognizance as against these petitioners. Hence, the names of the petitioners have to be strike out.

4. This Court issued notice to the respondent but the respondent after receipt of notice, engaged counsel, but there is no representation for the respondent today.

5. This court heard petitioners' side and perused the materials available on record and passed orders on merits.

6. In this case, it is seen from the records that these petitioners have been arrayed as 4th and 5th respondents in main D.V.C. Petition. The address of the petitioners in D.V.C. No. 4 of 2022 has been mentioned as Emerald Post, Kunha Taluk, The Nilgiris, but the petitioners have produced the



documents viz., Voter ID and Ration Card, in which the address is mentioned as Chinnavedampatti, Coimbatore. As per the petition, the 1st petitioner is the sister of the respondent and 2nd petitioner is the husband of the 1st petitioner. There is no specific allegation as against them and there are only general and vague allegations. It is well settled law that for vague and general and omnibus allegations, the petitioners need not face the trial proceedings. Therefore, this Court is of the opinion that there is no sufficient materials available to proceed the case as against these petitioners. Thereby, the name of the petitioners are to be struck off from the petition.

7. At this juncture, the learned counsel appearing for the petitioners has produced the recent Judgment of this Court in ***C.R.P No.1418 of 2022, dated 05.12.2022***, wherein, this Court, after elaborate discussion of so many Judgments, this Court has held in paragraph Nos.7 and 8 read as follows:

“7.Considering the principles laid down both by the Full Bench of this Court and the Hon-ble Supreme Court of India, this Court is of the considered view that there is no specific allegation against the petitioners 2 and 3. In the absence of any specific allegation, it will be a futile exercise and the petitioners 2 and 3 will be unnecessarily put to hardship. In the absence of any specific allegation in the



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complaint, the trial cannot go on in respect of the petitioners 2 and 3.

8. When there is no prima facie allegation against the petitioners 2 and 3, it is no desirable to allow the trial to go on against the petitioners 2 and 3. Perusal of the copy of the complaint reveals that the allegations are mainly against the first petitioner, who is none other than the husband of the respondent and there is no specific allegation against the petitioners 2 and 3 except certain general information in the complaint. If at all any clinching evidences are available with the respondent against the petitioners 2 and 3 during the course of trial, then it is for the respondent to initiate all appropriate action before the trial Court.“

8. In view of the above said Judgment, this Court is of the considered opinion that, there is no specific allegation made as against the petitioners at present, and thereby, the complaint as against the petitioners is liable to be quashed. If at all, any clinching evidences are available with the respondents against the petitioners during the course of trial, it is for the respondents to initiate appropriate action before the Trial Court in the manner known to law.



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Since, there is no sufficient materials available as against the petitioners at present, the proceedings against the petitioners are liable to be quashed.

9. Accordingly, the Civil Revision Petition is allowed by striking out the petitioners' name in the complaint in D.V.C. No. 4 of 2022 on the file of the Additional Mahila Court, Udthagai, The Nilgiris. No costs. Consequently, the connected Miscellaneous Petition is closed.

18.07.2024

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
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To

The Judicial Magistrate Court,
Additional Mahila Court,
Udhagai, The Nilgiris.



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P.DHANABAL, J.,

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