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CRP.No.1459 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2024

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

CRP.No.1459 of 2024
and CMP.Nos.7828 & 7829 of 2024

1.S.Rajkumar
2.Y.Srinivasan
3.Jaya
4.Pushpa
5.Asha

... Petitioners

Vs

Ramya

... Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India praying to call for the proceedings in connection with D.V.C.No.5 of 2024 filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 before the Judicial Magistrate No.II, Hosur, and quash the same.

For Petitioners : Mr.M.Manoharan



CRP.No.1459 of 2024

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ORDER

The revision petitioners have filed this revision seeking to quash the proceedings initiated against them under Section 12 of the Protection of Women from Domestic Violence Act.

2. The reading of the complaint in paragraph Nos.5,6,12 and 13 shows that the respondent has made necessary allegations against the petitioners to show that she is the victim of domestic violence. This Court's power to strike off the proceedings pending before the Judicial Magistrate under Domestic Violence Act would prevail only when the allegation in the complaint when read as a whole, fall short of requirements made out under Act No.43 of 2005.

3. The learned counsel for the petitioner would invite my attention to the statement given by the respondent-wife to the police officer to substantiate his case that the respondent-wife had taken back her jewels. The learned counsel would also state that the domestic violence complaint itself is an after thought of the respondent. It had been filed only after the



CRP.No.1459 of 2024

first petitioner-husband had filed H.M.O.P. No.69 of 2023 for divorce before the Principal Subordinate Judge, Hosur.

4. This Court under Article 227 of the Constitution is not empowered to record any evidence nor is it empowered to look into the statement made by the respondent-wife. These matters relied on by the first petitioner-husband can be substantiated at the time of trial. Insofar as the contention of the petitioner that the D.V. proceedings initiated against the petitioners is an after thought of the respondent-wife, I would reiterate that if the law enables a person to give a complaint, the mere fact of delay in lodging a complaint is beyond a reason to quash the complaint. Hence, the contention of the petitioners' counsel stands rejected.

5. Taking the complaint on its face value, I find necessary allegations regarding domestic violence exists. Therefore, I am not inclined to strike off the complaint with my powers entrusted under Article 227 of the Constitution. However, I notice that the petitioner is working in a multi national institution in Guindy, Chennai, and therefore, it will be difficult for him to travel from Chennai to Hosur for every hearing. Therefore, the



CRP.No.1459 of 2024

learned Magistrate is requested not to insist upon the presence of the petitioner-husband for every hearing, but he may be present for essential hearings. For all other hearings of the case, he may be represented through his counsel. The appearance of petitioners 2 to 5 herein is dispensed for every hearing, in other words, unless their presence is required.

6. In the result, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

10.04.2024

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

To:

- 1.The Judicial Magistrate No.II
Hosur.
- 2.The Section Officer
VR Section, High Court, Madras.



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CRP.No.1459 of 2024

V.LAKSHMINARAYANAN,J.

ds

CRP.No.1459 of 2024

10.04.2024