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Crl.O.P Nos.12639 & 12641 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2024

CORAM:

THE HON'BLE MR.JUSTICE DR.G.JAYACHANDRAN,J.

Crl.O.P Nos.12639 and 12641 of 2024
and
Crl.M.P Nos.7829 & 7830 of 2024

1.R.Martin

Sarprasatham(Deceased)

2.R.Philomina

... Petitioner
in both the petitions

Vs.

Princy Martin

... Respondents
in both the petitions

PRAYER in 12639 of 2021 : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to set aside the impugned docket order in unnumbered Crl.M.P No.... of 2024 in C.C No.568 of 2024 on the file of the IX Metropolitan Magistrate's Court at Saidapet dated 13.05.2024.

PRAYER in 12641 of 2021 : Criminal Original Petition is filed under



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Section 482 of Criminal Procedure Code to set aside the impugned docket order in unnumbered Crl.M.P No.... of 2024 in C.C No.569 of 2024 on the file of the IX Metropolitan Magistrate's Court at Saidapet dated 13.05.2024.

For Petitioner : Mr.V.Adithiyan
For Mr.R.Prabhakaran

For Respondents : Mr.R.Mohandass
For M/s.Swaminathan Law Associates

COMMON ORDER

These two petitions are filed by the petitioners, being aggrieved by the docket order passed by the IX Metropolitan Magistrate, Saidapet that the petition filed under Section 205 Cr.P.C was returned for not filling up the blanks and filed without the appearance of the petitioners.

2. The learned counsel for the petitioners would submit that the order passed under Section 12 of the Domestic Violence Act itself is erroneous, since it was passed without notice and the petitioners herein, being senior citizens not in a position to appear in person to attend the Court. Hence, they have filed a petition under Section 205 of Cr.P.C.

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However, the trial Court has returned the petition pointing out certain defects without considering the reasons stated in the petition.

3. This Court finds that the petition under Section 205 of Cr.P.C filed in a printed format requesting to dispense with the appearance of the petitioners since they are senior citizens and are having health issues. The Code of Criminal Procedure permits the absence of accused dispensing with their personal appearance under two circumstances:

i) under Section 317 of Cr.P.C on the particular ground, if the petitioner is unable to present, he can seek for leave of absence.

ii) If for entire proceedings, the accused wants to be represented through their pleader and seek dispense with his personal appearance, he can resort to Section 205 Cr.P.C.

4. When the petition is filed under Section 205 Cr.P.C., there



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must be a specific request seeking permission to abstain and in his absence, the pleader shall undertake to appear on the hearing dates. When such petition is filed, the Magistrate shall conduct enquiry and on his discretion, he may dispense with the personal attendance of the accused and permit the pleader to appear on behalf of the accused and also at any stage, the Magistrate may direct the personal appearance of the accused, if necessary.

5. Reading the petition filed by the petitioners, this Court finds that nothing stated in it to number the petition for consideration under Section 205 Cr.P.C. Hence, the trial Court has rightly returned the petition to represent the same with details and also insisted upon the appearance of the accused. This Court finds that no error or illegality in the said docket order.

6. Accordingly, these two Criminal Original Petitions are dismissed. The petitioners are at liberty to file a fresh petition with all necessary details to satisfy the ingredients of Section 205 Cr.P.C and seek



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for redressal. Consequently, connected Miscellaneous Petitions are closed.

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Index:Yes/No

Internet:Yes

Speaking/Non-speaking order

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DR.G.JAYACHANDRAN,J.

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