



C.R.P.(PD)No.2002 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE P. DHANABAL

C.R.P.(PD).No.2002 of 2022

and

C.M.P.Nos.10255 & 10257 of 2022

1. K.C.Thangamuthu Gounder

2. T.Saraswathi

3. T.Maheswari

... Petitioners

vs.

1.K.S.Divya

2.T.Kanagaraj

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against D.V.A.C.No.3 of 2020, on the file of the Judicial Magistrate, Perundurai and quash the same.

For Petitioners : Mr.V.Anandhamoorthy

For R1 : Mrs.R.Jeenath Unisa Begam

For R2 : No appearance



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ORDER

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This Civil Revision Petition has been filed by the petitioners, as against the proceedings in D.V.A.C.No.3 of 2020, wherein, the first respondent herein has filed an application before the learned Judicial Magistrate, Perundurai in D.V.A.C.No.3 of 2020. The petitioners are the respondents in the Original Application and filed this Civil Revision Petition, to quash the proceedings.

2. According to the petitioners, the first respondent is the wife of the second respondent. The second respondent is the son of first and second petitioners and also the brother of the third petitioner. The first respondent has filed Domestic Violence Complaint in D.V.A.C.No.3 of 2020, before the Judicial Magistrate, Perundurai. The petitioners are living separately and they have not committed any domestic violence as against the first respondent whereas, their names have been implicated as respondents 2 to 4 in the complaint, without any basis. The allegation against the petitioners are bald and vague and there is no specific allegation made against them. The names of all the family members were implicated in this case with malafide intention to settle the matrimonial dispute between the husband and wife. There are no specific allegation levelled against the petitioners and the petitioners are living away from the first respondent and they never had any domestic relationship



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with the first respondent and hence, pending D.V.A.C.No.3 of 2020 is only an abuse of process of law and the first respondent is not entitled to any relationship under the D.V.A.C.No.3 of 2020 as against the petitioners. Even, as per the complaint, the petitioners will not come under the definition of the respondents under Section 2(q) of the Act, 2005. Therefore, the complaint against the petitioners has to be quashed.

3. According to the respondents, the petitioners along with the second respondent harassed the first respondent and also demanded dowry from her and at the instigation of the petitioners, the second respondent harassed the first respondent. Therefore, she filed a petition under the Domestic violence Act, before learned the Judicial Magistrate, Perundurai.

4. The learned counsel appearing for the petitioners would contend that the first respondent is the wife of second respondent. The second respondent is the son of first and second petitioners and also the brother of third petitioner. The respondent filed a complaint as against the petitioners and the second respondent in D.V.A.C.No.3 of 2020, before the Judicial Magistrate Court, Perundurai and the same is pending and there is no domestic relationship



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between the petitioners and the respondents. The first respondent is residing at Karumandichellipalayam Post, Kanjikoil Road, Thai Nagar, Perundurai, Erode District. The first and second petitioners are residing at Karattupalayam, Matheswaran Kovil Street, Perundurai Taluk, Erode District. The third petitioner is residing at Nanjanapuram, Moorthy Nagar, Erode. There is a matrimonial dispute pending between the first and second respondents and in order to settle the same, the first respondent included the names of the petitioners as the parties in D.V.A.C. proceedings. Even, as per the averments, there is no specific allegation has been made as against these petitioners and the allegations are vague and bald. Therefore, the complaint registered as against the petitioners is abuse of process of law and the same is liable to be quashed.

5. The learned counsel appearing for the first respondent would contend that at the instigation of the petitioners, the second respondent harassed the first respondent and committed domestic violence as against her. Hence, she filed a petition and in the petition, she has clearly stated about the Domestic violence committed by the petitioners and thereby, *prima facie* material is available as against these petitioners. Hence, the present petition is liable to be



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dismissed.

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6. This Court heard both sides and also perused the records available.

7. The petitioners have filed this petition to quash the D.V.A.C. Proceedings pending before the learned Judicial Magistrate, Perundurai, on the ground that, there is no domestic relationship between the parties and the first and second petitioners are residing at Karattupalayam, Kanjikoil, Perundurai Taluk, Erode District and the third petitioner is residing at Moorthy Nagar, R.B.Orchid, Nanjanapuram, Erode Road, Erode District. The first respondent is residing at Thai Nagar Back side, Kanjikoil Road, Karumandichellipalayam Post, Perundurai Taluk, Erode District and the second respondent is residing at Thottani Chatiram, Erode Main Road, Perundurai Taluk, Erode District. Therefore, there is no domestic relationship between the petitioners and the respondents. But, the Trial Court, without considering the same, initiated the proceedings as against the petitioners and that the first respondent has implicated the petitioners' name in the D.V.A.C. proceedings is only to dissolve the matrimonial dispute pending between the first and second respondents.

8. It is admitted fact that these petitioners are in-laws of the first respondent and they are residing separately. Even, as per the complaint, there is



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no specific allegations made against the petitioners and that there are vague and bald allegations against them. There is no averments made in the complaint to attract the provisions of protection of women from Domestic violence Act. In the absence of any specific allegations made against the petitioners and in the absence of domestic relationship between the parties, it is not appropriate to face the proceedings in D.V.A.C.No.3 of 2020.

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

8.When there is no prima facie allegation against



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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."

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

11. In the result, the Civil Revision Petition is allowed. The proceedings against the petitioners 1 to 3, who are the respondents 2 to 4 in D.V.A.C.No.3



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of 2020 is hereby quashed. There shall be no order as to costs. Consequently,
the connected miscellaneous petitions stands closed.

02.07.2024

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Index :Yes/No

Internet : Yes/No

Neutral Citation :Yes/No

To:

1.The Judicial Magistrate,
Perundurai.

2.The Section Officer,
V.R.Section,
High Court of Madras.

P. DHANABAL, J.,

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