



CRP No.2813 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2024

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

CRP No.2813 of 2024
and CMP No.14972 of 2024

1. Mohammed Ibrahim
2. Anwar Sherif

.. Petitioners

-VS-

Mathina Begum

.. Respondent

Prayer: Petition filed under Article 227 of the Constitution of India against the order passed by the learned Judicial Magistrate Court-I at Maduranthagam in CMP No.3927 of 2022 in DVC No.5 of 2022 on 28.02.2024.

For Petitioners : Mr.K.Karthik

* * * * *

ORDER

The civil revision petitioners are the husband and father-in-law of the respondent. The first petitioner solemnized his wedding as per Muslim rites and customs on 15.07.2012 with the respondent. At the time of marriage,



CRP No.2813 of 2024

the respondent's father had endowed his daughter with 15 sovereigns of gold and cash of Rs.50,000/-. He had also gifted a watch to the first petitioner. Apart from that, the plea of the respondent is that she has brought forth silver, brass and other household articles worth a sum of Rs.20,00,000/-.

2. Alleging that four months after the marriage, the first petitioner abused and had physically beaten her up the respondent, left the matrimonial home on 03.01.2013. She lodged a complaint at the All Women Police Station at Tindivanam on 07.02.2013. Thereafter, she lodged the domestic violence complaint before the Judicial Magistrate Court No.I at Maduranthagam. It was taken on file as D.V.C.No.5 of 2022.

3. The husband took out an application in CMP.No.3927 of 2022 seeking dismissal of the domestic violence complaint. The said petition was dismissed on 28.02.2024. Against which, the present revision.



CRP No.2813 of 2024

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4. Mr.K.Karthik would submit that the domestic violence complaint is an abuse of process of law. He would state that the husband had already initiated divorce proceedings and had obtained divorce from the jurisdictional court in O.S.No.146 of 2013 on the file of Principal District Munsif Court at Tindivanam. He would invite the attention of the Court to the judgment and decree dated 06.06.2017. Apart from that, he would state that the wife had initiated proceedings in MC.No.6 of 2017 on the file of Judicial Magistrate Court at Maduranthagam which had ended in her favour directing the husband to pay a sum of Rs.3,000/- per month. He would state that suppressing all these facts, the wife has presented the domestic violence complaint. He would also state that certain falsified documents have been filed by the respondent. He would rely upon the judgments of the Supreme Court in ***Dalip Singh vs. State of U.P.*** reported in ***2010 (2) SCC 114***, and ***Kishore Samrite vs. State of U.P.*** reported in ***2013 (2) SCC 398*** to argue that if a person suppresses material facts, the petition is not maintainable. On these grounds, he pleads that the civil revision petition deserves acceptance.



CRP No.2813 of 2024

WEB COPY

5. I have my doubts as to whether an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005, is maintainable to decide the maintainability of the domestic violence complaint. In fact, the civil revision petitioner has invoked Section 12 of the Act. A perusal of Section 12 shows that it can be invoked by an "aggrieved person". An aggrieved person for the purpose of the Act is a female and a perusal of the record shows that both the civil revision petitioners are males. Apart from that, Section 28(2) of the Act enables the Court to fix its own procedure.

6. Insofar as the allegations of the husband that there has been suppression of previous proceedings and hence the petition deserves dismissal is concerned, I have to state that the jurisdiction of the Magistrate dealing with domestic violence complaints commences when the wife is able to show that there existed a domestic relationship between her and another. The marriage between the first petitioner and the respondent dated 15.07.2012 is not in dispute. At this stage, Mr.Karthik would submit that the father of the respondent had taken back all the materials that he had given to



CRP No.2813 of 2024

the first civil revision petitioner in the presence of Jamadars and he would invite my attention to the certificate issued by the Jamadars to substantiate this plea. I cannot appreciate evidence in a revision as a course. It is always open to the first petitioner to give oral evidence and summon who are all necessary in order to prove the truth and relevancy of the said document. In a civil revision petition against the application which is otherwise not maintainable, I am not in a position to come to the rescue of the husband. A reading of the complaint shows that there are specific allegations against the civil revision petitioners and when they exist, it cannot be a subject matter of trial by a revisional court.

7. Insofar as the authorities that have been referred to by Mr.Karthik are concerned, they arose under the writ jurisdictions. The remedy of a writ petition, which is a highly equitable jurisdiction, cannot be equated with the proceedings initiated under the Domestic Violence Act by the wife. Hence, the authorities are, unfortunately for Mr.Karthik, inapplicable to the facts of this case. Suffice it to say that I find prima facie allegations against the civil revision petitioners and therefore, I am not in a position to set aside the order



CRP No.2813 of 2024

passed by the learned Judicial Magistrate No.1, Maduranthagam in CMP. No.3927 of 2022 in DVC.No.5 of 2022 dated 28.02.2024. The plea of Mr.Karthik can certainly be raised at the time of trial in order to get the petition dismissed.

8. A perusal of the petition shows that the second civil revision petitioner is a senior citizen. His presence alone is dispensed with. He shall appear as and when his presence is necessary and for all other hearings, he shall be represented through a counsel.

9. The civil revision petition is, accordingly, dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

05.08.2024

Index : Yes/No
Neutral Citation : Yes/No
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To

Page 6 of 8



CRP No.2813 of 2024

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The Judicial Magistrate No.I,
Maduranthagam



WEB COPY



CRP No.2813 of 2024

V.LAKSHMINARAYANAN, J.

(sra)

CRP No.2813 of 2024

05.08.2024