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C.R.P.No.4170 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17..10..2024

Coram

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Civil Revision Petition No.4170 of 2024

and

C.M.P.No.22992 of 2024

Mrs.M.Sakunthala

..... Petitioner

-Versus-

M.Jeeva Shree

..... Respondent

Petition filed under Article 227 of the Constitution of India, praying to call for the records pertaining to CrI.A.No.185 of 2014 in CrI.M.P.No.918 of 2021 in D.V.C.No.70 of 2019 Order dated 11.07.2024 passed by the learned XVIII Additional Judge at Chennai and to set aside the order dated 11.07.2024 by allowing this revision.

For Petitioner : Mr.P.K.Ganesh

ORDER

This civil revision petition has been filed against the order passed by the learned XVIII Additional Judge, City Civil Court, Chennai, in CrI.A.No.185 of



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2024. This criminal appeal in Crl.A.No.185 of 2024 arose out of the order passed by the learned Metropolitan Magistrate, Additional Mahila Court, Egmore, Chennai, in Crl.M.P.No.918 of 2021 in D.V.C.No.70 of 2019 dated 21.12.2022. The civil revision petitioner is the 2nd respondent in D.V.C. No. 70 of 2019.

2. There is no dispute in the relationship between the parties. The sole respondent married one M. Sivakumar, son of the civil revision petitioner. The marriage took place on 08.06.1995 at Chennai. Thereafter, due to disputes and differences, the parties separated. The aforesaid M.Sivakumar presented an original petition in H.M.O.P.No.1738 of 2011 on the file of the Family Court at Chennai. This was a proceeding seeking divorce on the ground of cruelty. In turn, the respondent presented H.M.O.P.No.32 of 2019 on the file of the Family Court at Chennai seeking restitution of conjugal rights. Subsequently, she presented a petition before the Protection Officer under the Protection of Women from Domestic Violence Act, 2005. The petition was enquired into and thereafter taken on file as D.V.C.No.70 of 2019.

3. The civil revision petitioner pleaded that the respondent/daughter-in-law had separated from the family as early as in 1998 and therefore, there was



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no occasion for the civil revision petitioner to have inflicted any acts of domestic violence on the respondent/daughter-in law.

4. The learned Metropolitan Magistrate, Additional Mahila Court, Egmore, Chennai, enquired into the said petition and came to the conclusion that the petition to strike off does not deserve consideration. Hence, an appeal was preferred before the learned XVIII Additional Judge, City Civil Court, Chennai, which was received as CrI.A.No.185 of 2024. After hearing both sides, the learned XVIII Additional Judge dismissed the criminal appeal on 11.07.2024. Hence, this revision.

5. Heard Mr. P.K. Ganesh for the civil revision petitioner.

6. Mr.P.K.Ganesh submits that there are no allegations against the mother-in-law and that she is a senior citizen aged about 86 years today, and the proceedings in D.V.C. No. 70 of 2019, if it continues, would amount to harassment of the mother-in-law. He further points out that the civil revision petitioner is suffering from diabetes, irregular high blood pressure, and also has cardiac issues. He further points out the 1st respondent in D.V.C.No.70 of 2019 – M.Sivakumar passed away on 15.05.2021 on account of being afflicted with the COVID-19 virus.



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7. Mr.P.K. Ganesh further adds that the relief of residence order under Section 19; monetary relief under Section 20; and compensation under Section 22 of the Protection of Women from Domestic Violence Act, 2005, can be claimed only against the husband and not against the mother-in-law. On these points, Mr.P.K.Ganesh urges that the orders of the courts below require to be revised.

8. I have considered the submissions of Mr. P.K. Ganesh for the civil revision petitioner and gone through records carefully.

9. The relationship between the parties not being in dispute, I have to go as per the averments made in the domestic incident report, which is the foundation for the domestic violence complaint.

10. A reading of the domestic incident report reveals that on three occasions, on 20.04.2010, 08.12.2010 and 12.04.2011, the respondent had suffered from domestic violence as defined under Section 3 of the Protection of Women from Domestic Violence Act, 2005 (Central Act 43 of 2005) at the hands of her husband, the civil revision petitioner and her sister in law. Insofar as the civil revision petitioner is concerned, the specific averments are found on particular dates, viz., 20.11.2010 and 12.04.2011. The counter that has been



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filed to strike off the petition shows that the respondent/wife has specifically pleaded that she and the deceased – M.Sivakumar were living with the civil revision petitioner from 1995 to 2010.

11. Mr. P.K. Ganesh vehemently disputes the said statement. He states that the allegations made by the respondent/wife are untrue, and no such incidents ever took place, and the parties were residing separately.

12. While dealing with the application for striking off, I cannot go into the genuineness or otherwise of the pleas taken by the parties. This would have to be relegated for being agitated at the time of trial. If the pleadings show that the allegations exist against the civil revision petitioner, then it is not a case for striking off the complaint. The plea of the respondent is that it was the civil revision petitioner who had instigated her son – M.Sivakumar, which resulted in the breakdown of the marriage between the respondent and her husband-M.Sivakumar.

13. Furthermore, the respondent pleads that at the time of marriage, several streedana articles had been handed over to the family of the civil revision petitioner. Mr. M.Sivakumar having gone to meet his maker, it is now up to the civil revision petitioner to explain as to what happened to those



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streedana articles. If the articles had in fact been returned to the respondent, then this plea too will have to be proved at the time of trial.

14. These aspects have been carefully considered by the learned trial judge as well as the learned XVIII Additional Judge, being appellate Judge. Being concurrent findings of the act, the scope of revision is limited. All the pleas that had been raised by Mr.P.K.Ganesh on behalf of the civil revision petitioner can be raised by him at the time of final disposal of the proceedings.

15. I have not gone into the truth or otherwise of the allegations made by the respondent as against the civil revision petitioner. In fact, I cannot do so either on account of the fact that this is only a revision as against the dismissal of the strike off petition. Leaving it open to the parties to agitate the truth or otherwise of the matters, during the trial, this civil revision petition stands dismissed.

16. At this stage, Mr. P.K. Ganesh points out that the civil revision petitioner is already facing several litigations at the instance of the respondent as well as her son, Srinivasan, before the City Civil Court Chennai. Therefore, he pleads that if the matter is referred to mediation, there is a possibility of settlement.



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17. The learned Metropolitan Magistrate, Additional Mahila Court, Egmore, Chennai, is requested to find out from the parties, who are appearing before her, whether there is a possibility of settling the issues by mediation. In case such possibility exists, the learned Metropolitan Magistrate may refer the matter for mediation by the District Mediation Centre, Chennai.

This civil revision petition is dismissed with the above directions. No costs. Consequently, connected CMP is closed.

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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To

1.The XVIII Additional Judge, City Civil Court, Chennai.

2.The Metropolitan Magistrate, Additional Mahila Court, Egmore, Chennai.



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V.LAKSHMINARAYANAN.J.,

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