



WEB COPY



C.R.P. (PD) .No.798 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.798 of 2024

and

C.M.P.Nos.3941 & 26492 of 2024

1.Ifthikar Ahmed

2.Poun Rose

3.Arif Imran

.. Petitioners

Vs.

Safeeka Safreen

.. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to strike off the proceedings in D.V.C.No.19 of 2023 on the file of Judicial Magistrate Court No.I, Karaikal, against the petitioners and allow the civil revision petition.

For Petitioners : Mr.Nambi Arooran
for Ajmal Associates

For Respondent : Ms.Pavithra Devi
for Mr.K.Sathish



C.R.P. (PD) .No.798 of 2024

ORDER

This civil revision petition challenges the very presentation of D.V.C.No.19 of 2023 on the file of the Judicial Magistrate Court No.I, Karaikal.

2.The 1st petitioner is the husband and the 2nd petitioner is the mother-in-law and the 3rd petitioner is the brother-in-law of the sole respondent. The 1st petitioner married the respondent on 28.09.2014. From the wedlock, two female child were born on 02.07.2016 and 31.01.2018. Due to disputes, the 1st petitioner and the respondent were separated in January 2022. The 1st petitioner issued a notice calling upon the respondent to rejoin him on 06.10.2022. The notice was served and the wife agreed to rejoin him on 15.10.2022. The 1st petitioner pleads that he pronounced Triple Talaq on 25.10.2022, 25.11.2022 and 27.12.2022.

3.Pleading that the petitioners herein had assaulted her in January, 2022 as well as not letting her in the household on 04.02.2023 and other



allegations pointing towards the 1st petitioner, she presented D.V.C.No.19 of 2023. She seeks for several reliefs under Sections 18 to 22 of the Protection of Women From Domestic Violence Act, 2005. Hereinafter referred to as “The Act”. Challenging the same, the respondents before the learned Magistrate have presented this revision.

4.I heard Mr.Nambi Arooran for the civil revision petitioners and Ms.Pavithra Devi for the respondent.

5.Mr.Nambi Arooran submitted that there is absolutely no allegations against the petitioners 2 & 3 and therefore the proceedings against them deserves to be quashed. He points out that the 1st petitioner / husband has already divorced the respondent by pronouncing triple Talaq as early as December, 2022 and therefore, the alleged event on 04.02.2023 will not attract the provisions of the Act. He relies upon Section 2(q) of the Act to plead that the respondent means only a spouse or the male partner of the aggrieved person - wife and since the petitioners 2 & 3 are not covered under 2(q), the petition against them is not maintainable.



6.Per contra, Ms.Pavithra Devi, pleads that the respondent was never

aware of the Talaq that had been allegedly pronounced by the 1st petitioner.

She states on 04.02.2023, when she appeared before the Jamath. A sum of Rs.20,000/- was offered towards the Talaq amount, but she refused to receive the same. Drawing my attention to paragraph Nos.4 & 5 of DVC petition, she argues that when there was a quarrel between the 1st petitioner and the sole respondent, the petitioners 1 to 3 had physically attacked the wife. Furthermore, she points out when she went to the house on 04.02.2023, the civil revision petitioners refused to open the door and for a entire day, the wife had to sit on the street along with her two children, who are of tender age. She states that specific allegations have been made against the husband and in-laws and therefore, this is not a case for quash.

7.I have carefully considered the submissions of both sides.

8.Insofar as the plea of Mr.Nambi Arooran that the petitioners 2 & 3 are not covered under 2(q) is concerned, I have to refer to the proviso under the said Section. Under the proviso, an aggrieved wife or a female living in



the relationship in the nature of a marriage are entitled to file a complaint against the relatives of the husband or the male partner. This makes it clear that Section 2(q) is not confined only to a husband, but would also include a relative of the husband. The matrimonial relationship between the 1st petitioner and the sole respondent is not in dispute. There is no dispute to the fact that two children were born on 02.07.2016 and 31.01.2018. This shows that the sole respondent was living in a relationship in the form of a marriage with the 1st petitioner and therefore, the proviso to Section 2(q) is attracted. This covers the mother and brother of the 1st petitioner. Therefore, the argument that the petition is not maintainable as against the mother-in-law and brother-in-law on account of the fact that they are not covered by the definition under the Act has to be rejected.

9.The scope of revision under Article 227 of the Constitution of India with respect to quashing the proceedings under Domestic Violence Act has been considered by a Full Bench in *Arul Daniel and others Vs. Suganya, (2022) 6 CTC 833*. The Full Bench held that unless and until the learned Magistrate who has entertained no jurisdiction, this Court should not



entertain a revision. In the previous paragraphs, I have pointed out that the relationship between the 1st petitioner and the respondent is not in dispute.

That being the situation, I cannot come to the conclusion that the learned Judicial Magistrate Court No.I, Karaikal, has no jurisdiction to entertain the complaint.

10.The Full Bench also pointed out the remedy for a person, who feels that he / she has been wrongly impleaded, is to file an application before the learned Judicial Magistrate seeking strike off his / her name from the array of parties. If the “strike off” petition is dismissed, an appeal can be preferred to the Court of Sessions under Section 2(q) of the Act. If the appeal also results in dismissal, the persons all entitled to move this Court under Article 227 of the Constitution of India. That being the position of law, I am not in a position to come to the rescue of the civil revision petitioners.

11.It is open to the petitioners to approach the learned Judicial Magistrate and file appropriate applications, if they so desire, to strike off their names from the array of parties.



C.R.P. (PD) .No.798 of 2024

12.I notice that the petitioners 2 & 3 are the mother-in-law and brother-in-law of the sole respondent. The mother-in-law is said to be taking care of her husband at Trichy. Taking into consideration the age as well as the relationship of the petitioners 2 & 3, their appearance before the learned Magistrate is dispensed with. They shall however appear before the Court when their presence is indispensable or when the learned Judge passes a specific order to that effect. The petitioners 2 & 3 shall be represented on all dates of hearing through a counsel. This benefit will not be available for the 1st petitioner.

13.With the above observations of dispensed with, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

12.12.2024

krk

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



WEB COPY



C.R.P. (PD) .No.798 of 2024

V.LAKSHMINARAYANAN, J.

krk

To

The Judicial Magistrate Court No.I,
Karaikal.

C.R.P.(PD).No.798 of 2024

12.12.2024