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CRP.No.4715 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 14.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRP No.4715 of 2023

and

C.M.P.No.27987 of 2023

1.Kavitha

2.Magesh Kannan

...

Petitioners

Vs.

1.Sutha

2.V.G.Athiappan

3.Vijayalakshimi

4.Ganesan

...

Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India to quash the proceedings in D.V.C.No.3 of 2022 as against the Petitioners herein on the file of Judicial Magistrate-I, Attur.

For Petitioners : Mr.S.Patrick
for Mr.K.Sukumaran

For Respondent 1 : Ms.Lakshmi Raja

ORDER

This civil revision petition has been filed challenging the proceedings in D.V.C.No.3 of 2022 as against the petitioners herein on the file of Judicial Magistrate-I, Attur.



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2. The learned counsel for the petitioners submitted that the petitioners are second and third respondents in DVC No.3 of 2022 on the file of the learned Judicial Magistrate No.I, Attur. The first respondent is the complainant. The second respondent is the husband of the first respondent. Third and fourth respondents are mother-in-law and father-in-law of the first respondent.

3. The learned counsel for the petitioners further submitted that the petitioners married in the year 2004 and living together in their matrimonial home at Vellavan Apartment near ATC Depot, Rasipuram Taluk, Namakkal District which is far away from the first respondent's matrimonial home. The marriage of the first and second respondent was solemnised on 09.03.2008 and they are residing in Theerthagiri Nagar, Palacode, Dharmapuri District. Due to the dispute between the husband and wife, the second and first respondent herein, the first respondent/wife filed DVC No.3 of 2022 making allegations against the petitioners. The allegations in the complaint is that the petitioners along with respondents two to four have attempted to kill the second female child namely Menaghashree and also



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harassed the wife/first respondent since she delivered second female child and also subjected her to cruelty. The second respondent threatened the second female child by showing animals and also hanged the child in the roof of the house at 7.00 p.m. At that circumstances, the first respondent filed domestic violence original petition *inter alia* seeking the following relief:-

(i) Seeking an order of injunction restraining the respondents from entering into the house where the petitioner and the children Dhanushree, Menaghashree and Saswanth are residing and an order directing the first respondent to pay a sum of Rs.7,000/- towards rent for the house in which they are residing as per Section 19 of the Act.

(ii) An order directing the respondent as per Section 20 of the Act to render financial assistance to the petitioner to the tune of Rs.1,50,000/- per month towards food and clothing for the petitioner and her children, children's educational expenses, medical expenses and other miscellaneous expenses for the petitioner and her children.

(iii) An order directing the first respondent to return the items such as 60 sovereigns of jewells, three sovereigns chain given to the first respondent by the petitioner's parents, cash of Rs.5,00,000/- given at the time of marriage between the petitioner and the first respondent, three sovereigns of bracelet given by the parents of the petitioner to the first respondent for the first deepavali, cash of Rs.50,000/- given at the time of first Pongal festival, items like bureau, cot, mattress, TV, Refrigerator, Washing machine, Wet Grinder, Mixie and other domestic appliances given by the petitioner's parents to the



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first respondent at the time of marriage, the household articles worth about Rs.10,00,000/-, 2½ sovereigns of gold chain, waist band and anklet given to the first child Dhanushree as per their religious customs or in the alternative directing the first respondent to give a sum of Rs.40,00,000/- to the petitioner as per Section 21 of the Act.

(iv) Directing the respondents to give a sum of Rs.1,00,00,000/- (Rupees One Crore only) to the petitioner and her children as compensation for having caused mental agony and depression to them as per Section 22 of the Act

(v) To take suitable action against the respondents for having grabbed TC, Mark Sheet, Children's aadhar cards, ration card, the petitioners 60 sovereigns of jewels, the original title deed in respect of the property in the name of the petitioner from her by coercion.

(vi) To take suitable action against the respondents for having tortured the petitioner by beating and using abusive language from the date of their marriage demanding dowry such as money, jewells and other properties from her parents.

(vii) Seeking suitable action against the respondents 1, 2 and 4 for having cruelly assaulted and caused injuries to the three children on 01.02.2017 by bringing them to the forest and caused fear in their mind by showing animals and also hanged one of the children in the roof of the house at 7.00 p.m on 01.02.2017.

(viii) To take suitable action against the respondents for having intimidated the petitioner at the hospital as she gave birth to a second female child on 01.02.2010 and not to bring the second child to the matrimonial home despite their words that the child has to be killed.



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(x) *To pass such other order as the Hon'ble Court deems fit”*

4. The allegations made in the complaint are false and frivolous. Therefore, the petitioners have filed this Civil Revision Petition seeking to quash the complaint against the petitioners.

5. The learned counsel for the first respondent objected the submission of the learned counsel for the petitioners and also contented that the allegations made in the complaint are true. It has to be proved by let in evidence during trial. At the initial stage, there is no ground for quashing the complaint against the petitioners and therefore, seeking to dismiss this Civil Revision Petition.

6. Heard the learned counsel appearing for the petitioner and the learned counsel for the first respondent.



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7. On perusal of records, it is noticed that the petitioners are second and third respondents in DVC No.3 of 2022 on the file of the Judicial Magistrate-I, Attur. The second respondent married the first respondent/complainant on 09.03.2008. After the marriage, as per the complaint allegations, initially they were residing in the matrimonial home at Vellalapatti in Namakkal District and thereafter, since the second respondent/husband of the complainant was working as Veterinary Doctor at Dharmapuri District, they were residing in a house of Ramakrishna Teacher at Theerthagiri Nagar, Palacode in Dharmapuri District. While so, on 21.11.2008, the first respondent/wife delivered a female child by name Dhanushree and on 01.02.2010 she delivered another female child Menaghashree. Since the second child also a girl child, the petitioners along with respondents 2 to 4 advised the first respondent to kill the second female child but she refused the same. Further, they threatened the first respondent and there is a specific allegation in the complaint that on 01.02.2017 the second female child by name Menaghashree was cruelly assaulted and caused injuries. To substantiate these allegations in the complaint, the first respondent/complainant has not enclosed any medical



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report or material evidence. Further, the fact is not disputed that the husband and wife i.e., the complainant and the first respondent are living at Palacode, Dharmapuri District since the husband is working as a Veterinary Doctor. During the birth of Menaghashree on 01.02.2010 also the respondents 1 and 2 are living at Palacode. It is also not disputed that the Petitioners are living at Vellavan Apartments, Near ATC Depot, Rasipuram Taluk, Namakkal District. They are married in the year 2004 and after the marriage, the first petitioner is living along with her husband/second petitioner. At this circumstances, the allegations that the petitioners, after birth of Menaghashree on 01.02.2010, harassed the complainant and advised her to kill the female child Menaghashree is not believable allegation. Even though it is an admission, there should be some probability to accept the allegations. But in this case, the petitioners, who are the sister and brother-in-law of the second respondent, are living separately at Rasipuram in Namakkal District and this complainant and her husband are living at Palacode in Dharmapuri District. Further, there is no acceptable reason for the petitioners advising the first respondent to kill the second female child. Therefore, the allegations made against the petitioners being



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frivolous and baseless allegations, the same are liable to be quashed against these petitioners and continuing the criminal prosecution against these petitioners would amount to misuse of the process of the court and law.

8.In the result, this Civil Revision Petition is allowed. The criminal proceedings in D.V.C.No.3 of 2022 on the file of Judicial Magistrate-I, Attur, as against the petitioners is quashed. No costs. Consequently, connected miscellaneous petition is closed.

Index:Yes/No
Internet:Yes/No
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To

The Judicial Magistrate-I,
Attur.



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V.SIVAGNANAM, J.

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