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C.R.P.(MD)No.2924 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 22/02/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

C.R.P (MD) No.2924 of 2023

and

CMP (MD) No.15124 of 2023

1.Siranjeevi
2.Rajagopal
3.Maheswari

: Petitioners/
Respondents 1 to 3

Vs.

Jayachitra

: Respondent/
Petitioner

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the order in so far as the 5th condition in DVC No.19 of 2023 on the file of the Judicial Magistrate, Tenkasi District, dated 08/09/2023 and quash the proceedings and pass such further or other orders.

For Petitioners : Mr.S.Sathyachidambaram

For Respondent : Mr.S.Devaraj

O R D E R

This civil revision petition has been filed seeking to set aside the order in so far as the 5th condition in DVC No.19 of 2023 on the file of the Judicial Magistrate, Tenkasi District, dated 08/09/2023.



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2.The facts in brief:-

DVC No.19 of 2023 is filed by the respondent herein with the following averments:-

The respondent and the first petitioner herein loved each other when they were working in a textile shop. Against the wishes of the respective families, they performed the marriage on 27/09/2021. After that, they were living as joint family. The husband's family is running a power-loom. The respondent was directed to resign her job. So, she resigned the job. But the husband was attending the work. During their joint living, she was not properly treated by the husband and the in-laws. They started demanding 50 sovereigns of jewels and Rs.2,00,000/- of cash. She was insulted, harassed, ill-treated not only by the in-laws, but also by the husband. In-spite of the above said difference of opinion, a male child was born on 13/08/2022. She was taken to the parental home, left there. Thereafter, her husband did not take any proper care to maintain the child and the respondent. Later there was compromise between them. They lived together for two months only. On 10/12/2021 again demanding more money, she was assaulted physically. So, she left the matrimonial home along with the child. Neither the husband, nor the in-laws visited



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her and the child. On that account, domestic violence report was submitted. In the meantime, the respondent filed a petition seeking various reliefs.

3.That was resisted by the respondents in the main petition initially, but failed to appear on 01/09/2023. They remained **ex-parte**.

4.After hearing the petitioner/wife, recording the statement and evidence, the trial court ordered the payment of Rs.8,000/- as monthly maintenance from 12/07/2023 and Rs.6,000/- to the child from the date of the petition.

5.Against which, this civil revision petition is preferred against the 5th condition. Later the main petition was taken up. In the main petition also, the petitioners remained **ex-parte**. A detailed order has been passed finding that domestic violence was committed upon the respondent, preventing them from committing the similar domestic violence in future. Since the maintenance was ordered, no separate order was passed for residential relief. Compensation of Rs.9,00,000/- was fixed upon the petitioners jointly and severally. Against that portion, this civil revision petition is preferred.



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6.Heard both sides.

7.The maintainability of the petition is challenged as a preliminary point. The compensation order was passed under section 22 of the Act.

8.Section 29 of the Act reads as follows:

"29. Appeal. *There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later."*

9.Without exhausting the appeal remedy, this civil revision petition, which is not at all maintainable. No exceptional circumstances taken out in the grounds against the order. When there is a clear finding that domestic violence indeed happened, this court sitting in the revisional jurisdictional cannot re-appreciate the evidence. Re-appreciation of the evidence is permissible only in the form of appeal proceedings. On that account, the civil revision petition itself is not maintainable.



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Of course, liberty is granted to the petitioners to challenge the main order as per section 29 of the Act.

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10.Since the order ought to have been challenged within 30 days from the date of the order, the pendency of this civil revision petition may be excluded while computing the period of limitation, if any appeal is preferred by the petitioners.

11.With that, this civil revision petition stands **disposed of**. No costs. Consequently, connected Miscellaneous Petition is closed.

22/02/2024

Index:Yes/No
Internet:Yes/No
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To,

1.The Judicial Magistrate,
Tenkasi,
Tenkasi District.

2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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