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CRP.No.3567 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:29.10.2025

Pronounced on: 07.11.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. No.3567 of 2025
and CMP. No.19255 of 2025**

1.S.Jayakanth

2.T.Suyambukesan

Petitioner(s)

Vs

Dr.E.Preetha

Respondent(s)

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 07.10.2022 passed by the learned XXIII Metropolitan Magistrate, Saidapet in D.V.C. No.14 of 2021.

For Petitioners : Ms.K.Sumathi

For Respondent : No Appearance

ORDER

The petitioners are husband and father-in-law respectively of the respondent/wife. The respondent had filed proceedings under the Domestic Violence Act, in D.V.C. No.14 of 2021 on the file of the XXIII Metropolitan Magistrate, Saidapet. The petitioners challenge the order



dated 07.10.2022, passed by the learned XXIII Metropolitan Magistrate Court, in D.V.C. No.14 of 2021.

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2. Despite service of notice, the respondent has neither chosen to appear in person, nor through counsel. I have therefore proceeded to hear Ms.K.Sumathi, learned counsel for the petitioners.

3. The learned counsel for the petitioners would submit that though DVC proceedings were initiated by the respondent, pending the same there was a compromise between the first petitioner and the respondent and they also proceeded to file a petition for divorce by mutual consent, before the Principal Family Court, Chennai in O.P. No.1044 of 2024. In terms of the compromise, the first petitioner agreed to pay a sum of Rupees One Crore and as part of the settlement, the respondent also agreed to withdraw the Criminal Cases including D.V.C.No.14 of 2021, subject to payments being made by the first petitioner in terms of the compromise.

4. It is also the specific case of the petitioners that pursuant to the compromise, the first petitioner and the respondent also presented a petition for divorce by mutual consent under Section 13-B of the Hindu



Marriage Act, 1955 and the same has been numbered as O.P. No.1044 of 2024 on the file of the Principal Family Court, Chennai. The learned counsel for the petitioners further state that despite having co-operated and acted in terms of the joint memo of compromise, the respondent did not come forward for final orders being passed in the mutual consent divorce petition in O.P. No.1044 of 2024.

5. Taking note of the absence and non-cooperation of the respondent for passing a decree of divorce by mutual consent, the learned Principal Family Court Judge, in and by order dated 17.12.2024, relying on the decision of the Bombay High Court in *Prakash Alumat Kalandari Vs. Jahnavi Prakash Kalandari*, reported in *AIR 2011 Bombay 119*, held that having filed the petition and accepting to get a decree of divorce by mutual consent, one party cannot be allowed to unilaterally withdraw the consent, if the other party has acted upon the consent, either wholly or in part to his/her detriment, and proceeded to grant divorce by mutual consent. Even though the respondent had withdrawn the consent unilaterally after the first petitioner had paid Rs.50,00,000/-, a decree has been granted dissolving the marriage between the first petitioner and respondent by mutual consent. The respondent without adherence to the terms of settlement has not withdrawn the D.V.C. Proceedings.



6. In view of the respondent not coming forward to withdraw the D.V.C proceedings as undertaken in the settlement agreement, the present revision petition has been filed to set aside the order dated 07.10.2022 in D.V.C. No.14 of 2021 on account of subsequent developments.

7. It is not in dispute that the first petitioner and the respondent have agreed upon certain terms of settlement and they have also proceeded to file a petition for divorce by mutual consent. In fact, despite the non-cooperation and unilateral withdrawal of consent by respondent, the Principal Family Court has proceeded to grant decree for dissolution of the marriage. It was taking into account that after filing of the consent petition, the respondent has taken benefit of a sum of Rs.50,00,000/- which is to the detriment of the first petitioner. One of the terms of the compromise was that the D.V.C. proceedings will have to be withdrawn. Now that the respondent has not chosen to withdraw the D.V.C. proceedings, the petitioners with no other option have approached this Court to set aside the order dated 07.10.2022 in D.V.C. No.14 of 2021 in view of the subsequent events that had transpired between the first petitioner and the respondent.



8. Under the terms of the settlement agreement, the first petitioner has agreed to pay a sum of Rupees One Crore towards permanent alimony in full and final settlement of all claims of the respondent. It is in consideration of this payment that the respondent has also agreed to withdraw all criminal cases filed against the petitioners. The Family Court, while disposing of the mutual consent divorce petition, has not directed the first petitioner to pay the balance agreed permanent alimony of Rs.50,00,000/-. It would have been proper for the Family Court to have directed the first petitioner to comply with the obligations cast on him under the settlement agreement, before entitling him to a decree for dissolution of the marriage.

9. Be that as it may, the decree has been passed and the same has not been challenged by the respondent till date. Equally, the respondent having consented to settle the matter in a particular fashion and in part performance of such agreement has also received substantial sum of Rs.50,00,000/-. the respondent ought to have informed the Magistrate about the settlement and ensured that the D.V.C. proceedings were withdrawn or atleast the order dated 07.10.2022 recalled.



10. In the light of above and in order to take care of the interest of both parties, I am inclined to allow the revision petition in the manner following:

The order dated 07.10.2022 in D.V.C. No.14 of 2021 on the file of the XXIII Metropolitan Magistrate, Saidapet is set aside on condition, the first petitioner deposits a sum of Rs.50,00,000/- within a period of twelve (12) weeks to the credit of D.V.C. No.14 of 2021 on the file of the XXIII Metropolitan Magistrate, Saidapet.

11. In fine, this Civil Revision Petition is allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

07.11.2025

rkp

Index : Yes / No

Internet : Yes / No

To:

The XXIII Metropolitan Magistrate, Saidapet.



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P.B.BALAJI, J.,

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Pre-delivery order in
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