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CRP(PD).No.221 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.03.2025

PRONOUNCED ON : 28.05.2025

THE HONOURABLE Ms. JUSTICE P.T. ASHA

CRP.(PD).No.221 of 2025

and

CMP.No.1478 of 2025

1. Dr. Arunagiri
2. Mrs. Saroja

... Petitioners

Vs.

1. Mrs Mahalakshmi
2. G. Shakthi (minor)
3. G. Saradha (minor)
4. Mr. Girish Arunagiri

(Respondents 2 and 3 are represented by their father and guardian Mr. Girish Arunagiri.)

... Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India that the order made in CMP.No.20868 of 2021 (CNR No. TNCBOA-026194-2021) in D.V.A No.17 of 2021 dated 23.09.2024 on the file of the Special Court for Trial of Domestic Violence Act cases, Coimbatore may kindly be set aside by allowing this Civil Revision Petition.



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For Petitioner : M/s.Jothi Senior Counsel for Mr.S.Vinod

For Respondent : M/s.I.Abrar Md. Abdullah for R.1.

ORDER

By a revision challenging the dismissal of an application seeking to delete/strike off the names of the revision petitioners/ respondents 2 and 3 in DVA.No.17 of 2021, the they are before this Court.

2. The affidavit filed in support of the petition which is the subject matter of this Civil Revision runs to over 129 pages. The long and short of the petitioner's case is that no case of domestic violence has been made out against them and therefore they have to be struck off from the array of parties in the Domestic Violence Petition, in DVA.No.17/2021 on the file of the Special Judicial Magistrate Coimbatore.

Facts of the Case:-

3. A brief resume of the facts as set out in the Domestic Violence Petition which has given rise to this Civil Revision Petition are herein below set out and the parties are referred to in the same



ranking as before the Trial Court. Therefore, the Revision Petitioners, the father-in-law and mother-in-law of the 1st petitioner, are referred to as respondents 2 and 3 and the respondents 1 to 3 herein are referred to as petitioners 1 to 3 and the 4 respondent herein, the husband of the 1st petitioner as the 1st respondent. Petitioners 2 and 3 are the daughters of the 1st petitioner and the 1st respondent.

4. The marriage of the 1st respondent and the 1st petitioner took place on 15.01.2007 at Coimbatore as per Hindu Rites and Customs. The marriage was an arranged one. At the time of the marriage both the 1st petitioner as well as the 1st respondent were Indian Citizens. It is the contention of the 1st petitioner that she has completed her M.C.A. and was employed as a Developer with M/s. Snailworks at the time of her marriage. Likewise, the 1st respondent had an M.S. degree in Industrial Engineering. It is the case of the 1st petitioner that the expenses for the marriage and reception were exclusively borne by the 1st petitioner's family. In addition, they also had to bear the expenses incurred for the stay of the respondents and their people. The 1st



petitioner would contend that as per tradition she had been given 200 sovereigns of gold and 5 Kg of silver by her parents. That apart, her parents had also given 10 sovereign of gold including Thali and Omega watch to the 1st respondent.

5. It is her contention that till the marriage got registered, the 1st respondent and his family members were on their best behavior and thereafter they showed their true colours by demanding dowry. She would submit that both herself and the 1st respondent had left for the US on 29.01.2007 and initially there was harmony and happiness amongst themselves but however the same was short lived as the 1st respondent was an alcoholic and used to come home drunk. The 1st petitioner did not question these activities in the fond hope that the 1st respondent would reform in due course of time. However, that was not to happen.

6. The 1st petitioner's contention is that the 3rd respondent (mother of the 1st respondent and the 1st petitioner's mother-in-law)



was constantly in touch with the 1st respondent over phone and was deliberately misguiding him not to spend money on her and to send all his earnings to respondents 2 and 3. The 1st petitioner would contend that the 1st respondent was affectionate towards her but however on account of the ill advice of respondents 2 and 3, the 1st respondent had compelled the 1st petitioner and forcibly taken custody of all her jewels, cash and other belongings. The 1st petitioner had put up with these acts foreseeing a reformation on the part of the 1st respondent. The 1st petitioner was also put to a great deal of mental harassment by respondents 2 and 3 in as much as they would have a Skype call with the 1st respondent every month and would question the 1st petitioner as to why she was not conceiving. In fact, these calls would last for over 2 hours. While respondents 2 and 3 were harassing the 1st petitioner in this fashion, the 1st respondent remained silent without questioning his parents.

7. Meanwhile, the 1st petitioner had conceived the 1st child and



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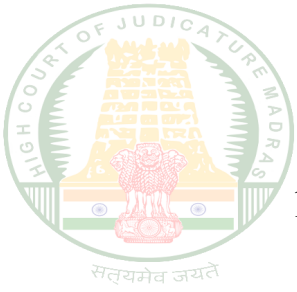
on 15.01.2009 a healthy baby girl named, Shakthi (the 2nd petitioner) was born. The 1st petitioner would submit that when the 1st respondent had visited her parental house for seeing her and the baby, he had demanded dowry from her parents for buying a house in his name in the US. Left with no choice, the 1st petitioner's father had given Rs.5,00,000/- to the 1st respondent for the down payment of the flat and it is only thereafter that the respondents had permitted the 1st petitioner and her daughter to travel to the US. After their return to the US, the 1st respondent's attitude had totally changed and he became more abusive.

8. Once again, in the year 2017, the 1st petitioner had conceived her second child. She was asked to abort the child as the respondents came to know that the baby was a girl. However, the 1st petitioner had decided to keep her child. On 07.09.2017, the 1st petitioner gave birth to her second girl child by name Sharadha (the 3rd petitioner). It is also the case of the 1st petitioner that in the month of June 2020 she



and the 2nd petitioner at the instance of the 1st respondent, had obtained permanent citizenship of the United States of America. The 1st petitioner would submit that harassment increased thereafter. Paragraph nos.7, 8 and 9 of the Domestic Violence Petition contain the allegations against the 1st respondent alone.

9. The 1st petitioner would submit that petitioners 2 and 3 are under her custody from their birth and she has been taking care of them. She had also admitted the 2nd petitioner into the Camford International School, of which were done with the interest of the minors at heart. She would submit that once the custody is given to her she would take care of her daughters and their interest would not be compromised. She would also submit that acts of violence of the husband increased further and this was causing a great deal of psychological effects upon the daughters. She would submit that, as a mother, it would be in the best interest of the minors to be under her care and custody.



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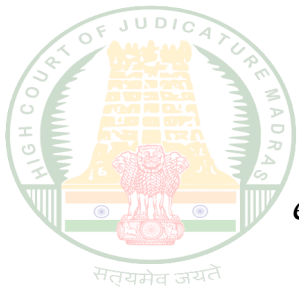
10. Thereafter, it appears that the US Court had granted an ex parte interim custody to the father, the 1st respondent and the children, viz; petitioners 2 and 3 have also been taken away by the 1st respondent. The 1st petitioner has sought for the following reliefs in the Domestic Violence Petition:-

“a). To prohibit the respondent to contact or communicate the petitioner directly or indirectly or through telephone U/S.18(d) of D.V.Act.

b).To produce bond and security for not involving his family dispute U/S.19(3).

c).to prohibit the respondent.no.1 to 3 and their men and agent from disturbing and causing violence to the 1st petitioner parents who is assisting the aggrieved and petitioner U/S. 18(f).

d).to prohibit the respondent.no.1 to 3 to



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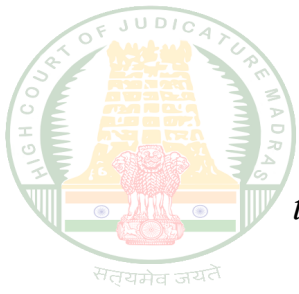


enter the educational institution of the 2nd and 3rd petitioner and other frequently visiting place of the petitioners and the working place of the 1st petitioner U/S.190.

e). To handover the gold ornaments of about 200 sovereigns and all to her sitres and other articles of the 1st petitioner or Rs.60 Lakhs for the compensation of jewels and other articles belonging to the 1st petitioner left behind in the matrimonial home under Section 19(8).

f). To give the marriage and reception expenses which were spent by the complainant Rs.10 lakhs under section 19(8).

g).to restrain all the respondent.no.1 to 3 and their men or agent from removing the custody of the 2nd and 3rd petitioner from the 1st petitioner and



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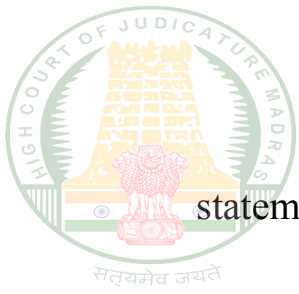


to contact or communicate the 2nd and 3rd petitioner directly or indirectly or through telephone under section 21 DV act.

h).To pay a compensation of Rs.1 Crore to the petitioner for the Domestic violence done by the Respondents U/S.22 of D.V.Act.”

11. Respondents 2 and 3 on entering appearance in the above matter have taken out an application in CMP.No.20868/2021 to strike off their names from the array of parties. They have challenged the petition on the following grounds:-

i. The 1st petitioner and the 1st respondent are American citizens and therefore are not amenable to the jurisdiction of the Special Court for Trial of Domestic Violence Act Cases, Coimbatore and therefore the petition filed by the 1st petitioner, an American citizen is not maintainable. They would rely upon the very statements contained in the petition filed by the 1st petitioner to substantiate the said



statement.

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ii. The 1st petitioner who is an American citizen and whose visa has expired is over staying in the country without any lawful authority.

iii. The 1st petitioner would not fall within the definition of the aggrieved person as set out in Section 2A of the Domestic Violence Act (herein after called as the “Act”) in as much as the allegations contained therein are vague and do not make out a case of Domestic Violence.

iv. The 1st petitioner had participated in the proceedings before the American Court initiated by the 1st respondent and orders have been passed only after hearing her and considering her pleadings.

v. The learned Special Judicial Magistrate, Coimbatore does not have the jurisdiction to entertain the said application as the 1st petitioner is not amenable the jurisdiction as contemplated under



Section 27 of the Act.

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vi. The 1st petitioner and respondents 2 and 3 have not been in a domestic relationship as the 1st petitioner has hardly stayed with them. She having left for the United States within a few days of her marriage.

vii. Vague allegations not substantiated by date, place or time have been pleaded by the 1st petitioner in her petition and there is no categorical statement about the allegations of domestic violence.

viii. The very petition is barred by limitation in as much as the allegations of domestic violence, if any as set out in the petition, dates back to the year 2017.

ix. In the light of the fact that the 1st petitioner has since participated in the divorce proceedings and signed on a Mediated Settlement Agreement on 21.08.2023 stating that both parties have no further claim against each other, the present petition is not



maintainable.

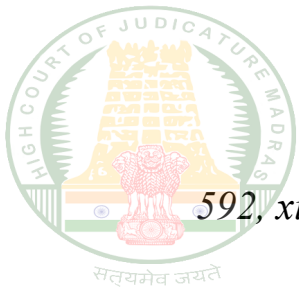
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12. The respondents 2 and 3 have also raised several other grounds touching upon each and every prayer set out in the revision. However, as stated earlier, the main crux of the proceedings is whether a case of Domestic Violence has been made against respondents 2 and 3.

Submissions:-

13. The learned Senior Counsel appearing on behalf of respondents 2 and 3/petitioners herein would submit that an American citizen cannot prosecute an Indian citizen and can do so only after obtaining sanction from the Central Government. In this regard he would rely upon Section 188 of Cr.P.C. and would rely upon the following judgments :-

"i.(2022) 1 MLJ (Crl) Mad.1, ii.AIR 1947 Madras 352, iii.AIR 1949 Madras 3, iv.AIR 1952 Punjab 178, v.1966 CRL. L.J. 366 vi.(1973) CRL L J. 1021, vii.(1993) 3 SCC 609, viii.(2005) 1 SCC 617, ix.(2007) CRL L. J. 636, x.(2008) 6 SCC 789, xi.(2010) CRL. L.J.

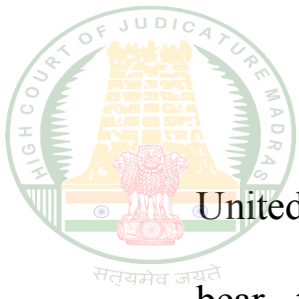


592, xii. (2011) 9 SCC 527."

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14. He would further submit that there are no specific allegations against the respondents 2 and 3 in the DVC Petition. He would in this regard place reliance upon the earlier proceedings between the 1st petitioner and the 1st respondent which has been reported in *(2022) 1 MLJ (Crl) Mad.1 - Girish Arunagiri, American citizen Vs. Mahalakshmi Senthil Nathan, American citizen and another.* where the Court has taken into account the fact that the parties are American citizens and the fact that the 1st petitioner has flouted the orders passed by the foreign Court wherein the Maryland Court, after hearing both parties had granted the custody of the children to the father.

15. The learned Senior counsel would also rely upon the judgment of the Hon'ble Supreme Court in *SLP (C) No.19678/2021* which is an application filed by the 1st petitioner against the order in HCP.No.654/2021 which is the subject matter of the judgement cited supra in which the 1st petitioner has volunteered to return to the



United States subject to the condition that the 1st respondent would bear the air fair, procure medical insurance, provide suitable accommodation and monetary support. All the conditions were also accepted by the 1st respondent.

16. The learned Senior Counsel for the respondents 2 and 3 would submit that there has never been a shared household between the 1st petitioner and the respondents 2 and 3 nor a domestic relationship in order to invoke the provisions of the Act. In this regard, he would rely upon the judgment of the full bench of this court reported in **2022 (6) CTC 833 - Arul Daniel and Others Vs. Suganya and anothers**. Therefore, he would contend that the learned Special Judicial Magistrate, Coimbatore has failed to appreciate these legal principles and has simply rejected the case of the respondents 2 and 3.

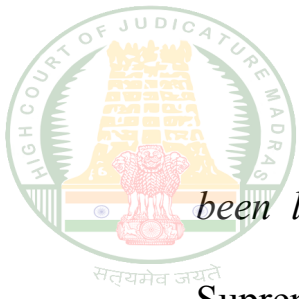
17. He would rely upon a judgement of the Bombay High Court reported in **2014 ALL MR (Cri) 636 - Sejal Dharmesh Ved Vs. The State of Maharashtra & Ors** in support of his argument that a person who has returned from the United States of America and who has



lived in India for a year cannot file an application claiming domestic violence during her earlier domestic relationship.

18. Per contra, Mr. I.Abrar Md. Adbullah appearing on behalf of the 1st petitioners would submit that sufficient grounds for sustaining the petition for domestic violence has been set out in the petition filed before the Special Judicial Magistrate, Coimbatore. He would rely upon the judgment of the Hon'ble Supreme Court in SLP (C) No.19678 of 2021 to state that the leave had been granted by the Hon'ble Supreme Court to approach them in case of the non-compliance of the consent order based upon which the Hon'ble Supreme Court had disposed of the SLP by order dated 17.12.2021.

19. He would rely upon the judgement of the Hon'ble Supreme Court reported in **(2022) 8 CC 90 - Prabha Tyagi Vs. Kamlesh Devi** to highlight what domestic violence is and would draw the attention of this Court to paragraph 75.2 where the court was answering the following questions; *“Whether it is mandatory for the aggrieved person to reside with those person against whom the allegations had*



been levied at the point of commission of violence.” The Hon’ble

Supreme Court has held that it is not mandatory for the aggrieved person to actually reside with the other person. He would also draw the attention of the court to the next question which was posed before the Bench which reads as follows: *“Whether there should be a subsisting domestic relationship between the aggrieved person and against whom the relief is claimed”*. The Hon’ble Supreme Court answered this question by contending that the aggrieved person was not in a shared household at the time of the filing of the application but who has lived so earlier and at which point in time, they have been subjected to domestic violence could maintain a petition.

20. With reference to the issue of limitation, he would rely upon the judgment reported in **2022 3 LW. 792 - P.Krishnappa Vs. Padmavathy**.

21. In support of the contention that a domestic violence case can also be filed against a foreigner he would rely upon the judgement reported in **2020 SCC Online Del 1319 - Karan Goel Vs. Kanika**



Goel. This judgment has been confirmed by the Hon'ble Supreme Court in ***SLP (C) No.14805/2020 -Karan Goel Vs. Kanika Goel.***

22 With reference to Section 188 of Cr.P.C., he would rely upon the judgement reported in ***(2022) 13 SCC 136 - Sartaj Khan Vs. State of Uttarakhand.***

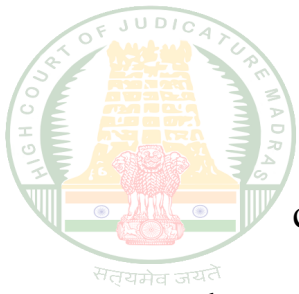
23. With reference to the issue of shared household, he would rely upon the judgement passed by the Bombay High Court reported in ***2022 SCC Online Bom 1198 - Aditya Anand Varma and Others Vs. State of Maharashtra and Others.***

Discussion:-

24. The issue that has now been placed for consideration before this Court can be discussed under the following heads:-

a) Whether the 1st petitioner has made out a case of domestic violence against the respondents 2 and 3?

b) Whether the 1st petitioner was in a shared household with respondents 2 and 3?

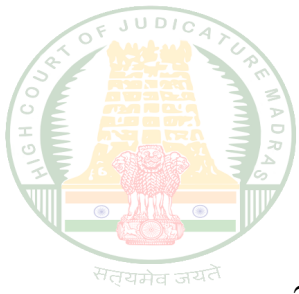


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c) Whether the 1st petitioner being a foreigner can initiate a domestic violence petition against respondents 2 and 3 who are Indian citizens and against the 1st respondent who is a US citizen without obtaining the sanction of the Central Government under Section 188 of the Cr.PC.?

d) Whether by signing the Mediation Settlement Agreement before the Marylands Court in the divorce proceedings initiated by the 1st respondent after the filling of this Domestic Violence Petition, the 1st petitioner can still maintain the DVC proceedings?

25. As regards Issue (a), the 1st petitioner has filed an application under Section 12 of the Act against respondents 1 to 3 alleging that the respondents have indulged in acts of domestic violence. The present revision petitioners who are the in-laws i.e., father-in-law and mother-in-law of the petitioner seek to have their name struck off from the array of parties on the ground that there are no allegations made out against them. The relationship between the parties have already been extracted in the paragraph 3 supra.



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26. In order to appreciate the aforesaid contentions, it is necessary to briefly set out the allegations that have been made by the 1st petitioner against respondent 2 and 3.

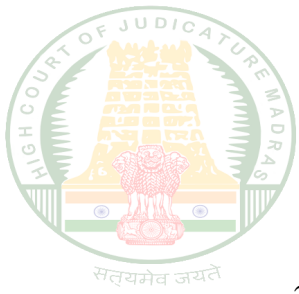
27. In para no.3 of the petition, the 1st petitioner would state as follows: *"the respondent.no.1 to 3 Started to demand dowry and other "Articless" (Gifts) from the 1st petitioner's family. The 1st petitioner's parents provided the entire "Articles", as demanded by the respondent.no.1 to 3, in order to maintain the peaceful matrimonial life of the 1st petitioner in her with her husband and in laws."* This appears to be the first allegation that has been made against respondents 2 and 3.

28. The second allegation is set out in para no.4 of the petition wherein the petitioner would state as follows : *"The 1st petitioner submits that during her stay at Maryland, USA the 3rd respondent used to contact the 1st respondent regularly over phone and skype and misguide the 1st respondent not to spend any money for the 1st*



petitioner and to send all his earnings to the 2nd and 3rd respondent herein. The 1st petitioner submits that the 1st respondent was affectionate towards the 1st petitioner but only due to the ill advices of the 2nd and the 3rd respondent, the 1st respondent had compelled the 1st petitioner and forcibly took custody of all jewels, cash and other belongings of 1st petitioner by coercion and threats, but the 1st petitioner has tolerated all such acts for a peaceful marital life with the 1st respondent."

29. The third allegation which has been made against respondents 2 and 3 is set out as follows: *"the respondent.no.2 and 3 had been calling the 1st petitioner and the 1st respondent over skype conference call the 1st petitioner and the 1st respondent over skype conference almost every month exactly during her menstrual period and used to torture the 1st petitioner for not getting conceived and the conversation used to last for even 2 hours continuously. Thus the Respondent No.2 and 3 harassed the 1st petitioner by mentally by words, even though the respondent remained silent and never questioned or adviced their parents not to harass the 1st petitioner."*

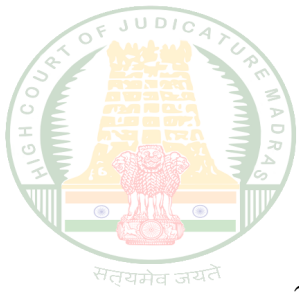


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30. The fourth allegation is that; *"After, delivery the 2nd and 3rd respondent came to see the 1st petitioner and child i.e. the 2nd petitioner herein and demanded dowry from the 1st petitioner's parents for buying a new house in the 1st respondents name at USA. After several demands the 1st petitioner's father with no other option to save his daughters married life, gave Rs.5 lakhs to 1st respondent for down payment. Only after that the 1st respondent and his family members allowed the 1st petitioner and her daughter to enter the matrimonial house at USA."*

31. The last of the allegation is at paragraph no.8 which is as follows:

"Subsequent to the above said incident, all the respondent.no.1 to 3, through their relatives and friends, was continuously threatening the 1st respondent.no.1 to 3 also threatened the 1st petitioner by saying that if 1st respondent returned to USA, he would separate the children from 1st petitioner and she would be left in lurch alone and forced to beg at the 1st respondent."



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32. Apart from these allegations, no other averments have been made against respondents 2 and 3. The relief that the 1st petitioner had claimed has been extracted in para no.10 supra. A mere perusal of which would clearly indicate that the reliefs claimed and the allegations that are contained in the petition have no connection.

33. The 2nd prayer relates to the production of a bond in security as contemplated under Section 19(3) of the Act. Section 19 of the Act deals with the residence orders. and Section 19(3) of the Act relates to the execution of a bond in the context of Section 19 of the Act. Nowhere in the petition has the 1st petitioner claimed any residence orders in the shared household. That apart, the 1st petitioner has not lived in a shared household along with respondents 2 and 3 and taking note of this fact as well as the fact that the 1st petitioner has not demanded resident orders, prayer (b) appears to be misconceived.

34. As regards the relief claimed under prayer(c) which relates



to a prohibition of causing violence to the 1st petitioner's parents.

Such a request is beyond the pleadings. Nowhere in the petition has the 1st petitioner contended that her parents were being subjected to disturbance and violence at the hands of respondents 1 to 3. Without such an allegation, the 1st petitioner has come forward to make such a claim.

35. Prayers (d) and (g) are no longer available to the 1st petitioner in as much as petitioners 2 and 3 are now in the care and custody of the 1st respondent in the United States of America pursuant to orders of the Maryland's Court.

36. As regards Prayer (a) and (e) there is no clarity in as much as the that the 1st petitioner has not even stated against whom the relief is claimed.

37. A perusal of the allegations made against respondents 2 and 3 which have been extracted supra, the 1st petitioner has not given specific details, the date of such demand and the persons to whom a



request for gift had been made. Further, these allegations remain unsubstantiated, more particularly when the 1st petitioner had got married on 15.01.2007, and on 29.01.2007, i.e., within a period of two weeks, the 1st petitioner had left for the United States of America along with the 1st respondent and therefore, her contention that demand for dowry had been made appears to be an afterthought, more particularly when the 1st petitioner would herself say that the gold, silver, watch etc. have been given by her parents to her and her husband as per their tradition. The details of the articles that had been demanded as dowry have not been set out and the allegations are rather vague.

38. With reference to the allegations contained in paragraph no.4 once again, the telephonic conversation that a parent has with his or her child is found fault with on the ground that the 1st respondent was advised not to spend money on the 1st petitioner. Immediately after making the statement, the 1st petitioner would go on to state that the 1st respondent was very affectionate towards her but only due to the ill advice of respondents 2 and 3, he had compelled her to



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handover the custody of the cash, jewels and other belongings. From the allegation, it is not clear as to whether these articles were taken custody in India or in the United States of America since the parties have moved to America within 14 days of the marriage. It is also not the case of the 1st petitioner that she had carried the jewelry, the gold, silver and Streedhan articles that were given to her by her parents as per tradition to the United States of America. That apart, the allegation is against the 1st respondent and not against respondents 2 and 3.

39. The next allegation is with reference to the anxiety of respondents 2 and 3 for a grandchild. The enquiry made in this regard to the 1st petitioner is now twisted out of context as a mental harassment.

40. The allegation that after the child (2nd petitioner) was born, the 2nd and 3rd respondents had demanded dowry from the 1st petitioner's parents for buying a house in the United States of America is also not substantiated by any document and there is nothing to show that a sum of Rs.5,00,000/- has been transferred by parents of the 1st



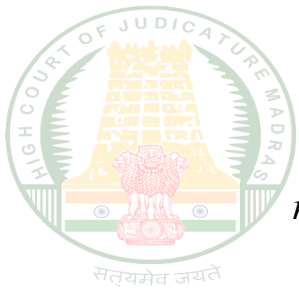
petitioner to the 1st respondent for the down payment of the house.

Therefore, none of these allegations which have been made in the petition nor the relief claimed make out the case of domestic violence against respondents 2 and 3.

41. Another aspect which has to be considered is issue no.(b). What is a shared household came up for consideration in the judgment reported in **(2017) 8 SCC 550 -Manmohan Attavar VS. Neelam Manmohan Attavar.**

42. Section 2 (s) of the Protection of Women from Domestic Violence Act would read as follows:-

"shared household means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the



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respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household;"

43. In order to determine the allegations of domestic violence pleaded by the 1st petitioner, the 1st petitioner has to first of all establish a domestic relationship as defined in Section 2(f) of the Act. Section 2(f) of the Act defines domestic relationship as follows:-

"domestic relationship means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;"

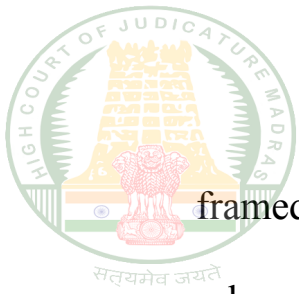
44. Therefore it is necessary for a person pleading domestic



violence to establish a domestic relationship in a shared household.

Admittedly, the 1st petitioner herein has not been living with the respondents 2 and 3 as she had left for the United States of America within a fortnight of her marriage. In the application, which is the subject matter of this revision, the 1st respondents have set out a tabulated statement containing the details of the time that they had spent with the 1st petitioner and 1st respondent in America and everytime that they visited the 1st petitioner and the 1st respondent in the United States of America, there was one or the other relative of the 1st petitioner who was living along with the 1st petitioner and the 1st respondent. Further, it is not the case of the 1st petitioner, as pleaded in her Domestic Violence Petition, that the acts of domestic violence had taken place in the United States of America. On the contrary, the allegations are that the respondents 2 and 3 have been instigating the 1st respondent from India. Therefore, it is crystal clear that the 1st petitioner has not made out a case of a shared household.

45. In the judgment reported in **2021 1 SCC 414 - Satish Chander Ahuja Vs. Sneha Ahuja** , the Hon'ble Supreme Court had



framed certain questions that arose for determination and the points relevant to the facts of the instant case are the two questions set out in para. nos.30.1 and 30.2 , which reads as follows:-

"30.1. (1) Whether definition of "shared household" under Section 2(s) of the Protection of Women from Domestic Violence Act, 2005 ("the 2005 Act"). has to be read to mean that shared household can only be that household which is household of joint family or in which husband of the aggrieved person has a share?"

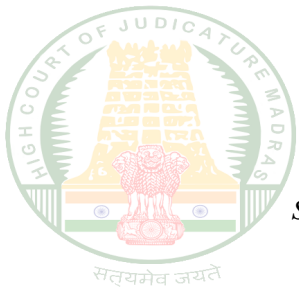
30.2. (2) Whether judgment of this Court in S.R. Batra v. Taruna Batra has not correctly interpreted the provision of Section 2(s) of the Protection of Women from Domestic Violence Act, 2005 and does not lay down a correct law?"

46. In paragraph no.44, the learned Judges had observed that an aggrieved person, as defined under Section 2(a) of the Act, is the person who is or has been in a domestic relationship with the



aggrieved person who alleges to have been subjected to domestic violence by the other party. In paragraph no.46, the learned Judges had observed that the next definition which is relevant is for the recognition of the issue is Section 2(s) dealing with the shared household. After discussing the definition and the judgments in this regard, the learned judges had held as follows:-

" Thus, first condition to be fulfilled for a shared household is that person aggrieved lives or at any stage has lived in a domestic relationship. The second part sub-divided in two parts is- (a) includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent and owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and (b) includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the



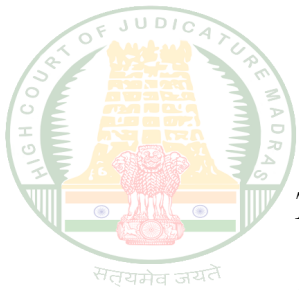
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shared household. In the above definition, two expressions, namely, “aggrieved person” and “respondent” have occurred. From the above definition, following is clear:- (i) it is not requirement of law that aggrieved person may either own the premises jointly or singly or by tenanting it jointly or singly; (ii) the household may belong to a joint family of which the respondent is a member irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household; and (iii) the shared household may either be owned or tenanted by the respondent singly or jointly."

"68. The words "lives or at any stage has lived in a domestic relationship" have to be given its normal and purposeful meaning. The living of woman in a household has to refer to a living which has some permanency. Mere fleeting or casual living at different places shall not make a shared household.



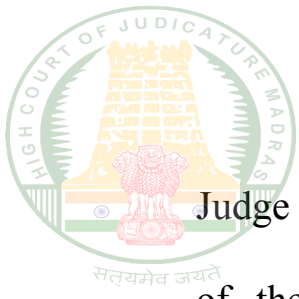
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The intention of the parties and the nature of living including the nature of household have to be looked into to find out as to whether the parties intended to treat the premises as shared household or not. As noted above, the 2005 Act was enacted to give a higher right in favour of women. The 2005 Act has been enacted to provide for more effective protection of the rights of the women who are victims of violence of any kind occurring within the family. The Act has to be interpreted in a manner to effectuate the very purpose and object of the Act. Section 2(s) read with Sections 17 and 19 of the 2005 Act grants an entitlement in favour of the woman of the right of residence under the shared household irrespective of her having any legal interest in the same or not.

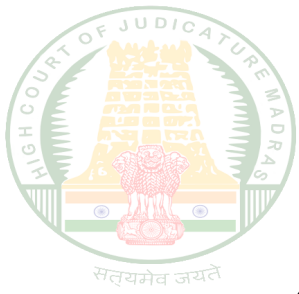
47. In the judgment relied upon by the 1st petitioner/1st respondent reported in **2022 SCC Online Bom 1198 - Aditya Anand Varma and Others Vs. State of Maharashtra and Others** the learned



Judge had after discussing the various judgements including the case of the Supreme Court which is referred supra, namely, **Satish**

Chandra Ahuja case, observed as follows:-

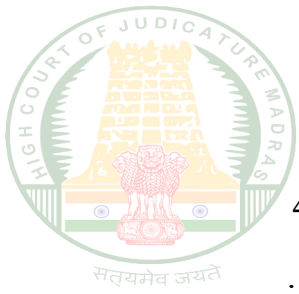
"43. In the Indian societal context, the right of a woman to reside in the shared household is of unique importance. The reasons for the same are not far to see. In India, most women are not educated nor are they earning; neither do they have financial independence so as to live singly. She may be dependent for residence in a domestic relationship not only for emotional support but for the aforesaid reasons. The said relationship may be by consanguinity, marriage or through a relationship in the nature of marriage, adoption or is a part of or is living together in a joint family. A majority of women in India do not have independent income or financial capacity and are totally dependent vis-à-vis their residence on their male or other female relations who may have a domestic relationship with her.



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44. *In our view, the D.V. Act is a piece of Civil Code which is applicable to every woman in India irrespective of her religious affiliation and/or social background for a more effective protection of her rights guaranteed under the Constitution and in order to protect women victims of domestic violence occurring in a domestic relationship. Therefore, the expression 'joint family' cannot mean as understood in Hindu Law. Thus, the expression 'family members living together as a joint family', means the members living jointly as a family. In such an interpretation, even a girl child/children who is/are cared for as foster children also have a right to live in a shared household and are conferred with the right under Sub-Section (1) of Section 17 of the D.V. Act. When such a girl child or woman becomes an aggrieved person, the protection of Sub-Section (2) of Section 17 comes into play."*



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48. The aforesaid judgements are purely academic in the instant case in as much as the 1st petitioner and the 1st respondent are American citizens and in the divorce proceedings, before the Maryland Court, USA a Mediation Settlement agreement has been signed and entered into between the 1st petitioner and the 1st respondent wherein the parties have agreed for a mutual waiver of personal property of each other, whereunder, the parties had agreed that the tangible personal properties and leasehold items which are located at the 1st respondent's residence, (the plaintiff therein) except for items in schedule A would remain as sole and exclusively property of the 1st respondent and similarly the tangible and personal property and the household property that are located in the 1st petitioner's residence (defendant therein) together with the items in the schedule A are the exclusive property of the 1st petitioner, and the items set out in schedule A would be taken possession by the 1st petitioner. In the said agreement, the parties have agreed to a mutual general release thereby, they have clearly set out that they had no claim against each other. This agreement has been signed during the pendency of the instant Domestic Violence Petition before the Special Judicial Magistrate at



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49. Further, the 1st petitioner has also handed over the custody of the children to the 1st respondent pursuant to the orders of the Court at Maryland. The allegation that is now made out by the 1st petitioner that she was not given a good hearing was already raised by her in the HCP proceedings which is reported in **(2022) 1 MLJ (Crl) Mad.1** and the Division Bench of this Court has held that the 1st petitioner was given a hearing and it is only on her statement that orders have been passed. Therefore, in the absence of the allegations against respondents 2 and 3 and the fact that the 1st petitioner is not in a shared household with respondents 2 and 3, it has to be held that the 1st petitioner has not made out a case against respondents 2 and 3.

50. The 1st petitioner who has signed the Mediation Settlement Agreement is still continuing the Domestic Violence Petition particularly when she had agreed in the said agreement that she has no further claims against the 1st respondent. In the said agreement, there is absolutely no allegations about the 1st petitioner being subjected to



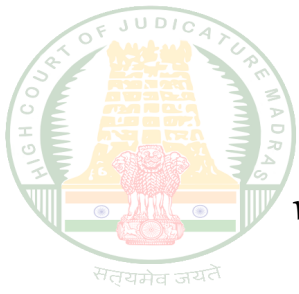
harassment by respondents 2 and 3. That apart, most of the allegations that have been made in the DVC Petition is against the 1st respondent and having settled the dispute with the 1st respondent by signing the mediation settlement agreement. It is not fair on the part of the 1st petitioner to continue the proceedings against respondents 2 and 3 particularly when the allegations have not been made against them. Therefore, the continuance of the DVC proceedings against respondents 2 and 3 is misconceived.

51. The 1st petitioner has raised an issue that the continuance of the Domestic Violence Petition without the sanction of the Central Government is contrary to the provisions of section 188 of the Cr.P.C. Section 188 of Cr.P.C reads as follows:

"188. Offence committed outside India - When an offence is committed outside India -

(a) by a citizen of India, whether on the high seas or elsewhere; or

(b) by a person, not being such citizen, on any ship or aircraft registered in India, he may be dealt



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with in respect of such offence as if it had been committed at any place within India at which he may be found :

Provided that, notwithstanding anything in any of the preceding sections of this Chapter, no such offence shall be inquired into or tried in India except with the previous sanction of the Central Government."

52. The judicial pronouncements in this regard is that a sanction under Section 188 of Cr.P.C may not be a condition precedent for investigation but that before the trial commences, sanction has to necessarily be obtained. In the instant case, the person who has initiated the proceedings is an American citizen as also the 1st respondent and it is only the respondents 2 and 3 who are the citizens of this country. The judgments that has been relied upon by either side is a case where the complainant is a citizen of this country. However, in the instant case, the complainant is a foreigner. Even in the case relied upon by the learned counsel for the 1st petitioner reported in **2020 SCC Online Del 1319 - Karan Goel Vs. Kanika Goel.** The



respondent/wife had not obtained American citizenship and it is only the husband who was an American citizen and he had raised an objection to the initiation for divorce in India. However, the Division Bench of the Delhi High Court held that since India remained a domicile of choice for the wife, the Courts in India were not divested of the territorial jurisdiction to entertain the petition, since the marriage took place in Delhi as per the Sikh ceremonies.

53. In paragraph no.37 of the judgment, the learned Judges have observed as follows:-

"In the instant case, the respondent/wife remains a citizen of India and therefore, is a domicile of India for all intents and purposes. She has chosen to approach the courts in India for obtaining a decree for divorce. Section 19(iii) read with Section 1 and Section 2 of the Act must be interpreted meaningfully and in such a manner as to confer jurisdiction on courts in India for entertaining a petition under the Act filed by the



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wife in circumstances where her husband has deserted her to go abroad or invoked the jurisdiction of foreign courts to obtain ex-parte orders/decrees, leaving her with no efficacious remedy outside the country."

54. A bare reading of the Section would indicate that the provisions of Section 188 Cr.P.C. would apply in the case of the following offences where the offence is committed outside India:-

(a) by a citizen of India - whether it was committed on the high seas or elsewhere,

(b) by a person who is not a citizen of India in any ship or aircraft registered in India.

In these cases it shall be deemed that the offence is committed in India.

55. The proviso would read that the offences detailed in Section 188(a) and (b) shall not be enquired into or tried unless there is a previous sanction of the Central Government. Therefore, the



primordial requirement for invoking the provisions of Section 188

Cr.P.C. is the person committing the offence and the place where the offence is committed. The Section does not refer to the person making the complaint.

56. Admittedly, in the instant case the allegation is that the respondents 1 to 3 have committed an offence under the Act. As regards respondents 2 and 3 the allegation is that from India they have been instigating the 1st respondent to commit offence (harassment) in the US. The allegation against the 1st respondent is that he is committing an offence in the US. The 1st respondent is not a citizen of India. Both these circumstances will not fall within the provisions of Section 188 Cr.P.C. Therefore, the institution of the proceedings by the 1st petitioner without obtaining the sanction from the Central Government under section 188 of Cr.P.C cannot be found fault with.

57. The Trial Court, before whom all these arguments had been addressed has not considered the same and has abdicated its jurisdiction by simply holding that the issues have to be decided only



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after trial. This observation is absolutely misconceived and consequently, the Civil Revision Petition is allowed. The impugned order passed in CMP.No.20868 of 2021 (CNR No.TNCBOA-026194-2021) in D.V.A No.17 of 2021 dated 23.09.2024 is set aside and the name of respondents 2 and 3 are struck off from the array of parties in D.V.A.No.17 of 2021. No costs. Consequently, the connected Miscellaneous Petition is closed.

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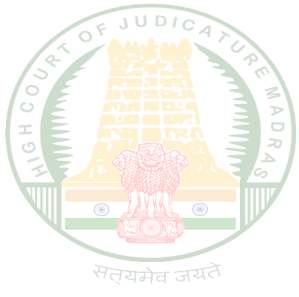
Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The Special Court for Trial of
Domestic Violence Act cases,
Coimbatore



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P.T. ASHA. J.,

(shr)

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and
CMP.No.1478 of 2025

28.05.2025