



C.R.P.(MD)No.2983 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2025

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THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.2983 of 2024
and C.M.P.(MD).No.17084 of 2024

G.Manickam ... Petitioner/Respondent

Vs.

Nithiyakalyani ... Respondent/Petitioner

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the order dated 10.04.2024 passed in D.V.C.No.34 of 2023 (CNR No.TNTL14-008105-2023) on the file of District Munsif cum Judicial Magistrate, Shengottai.

For Petitioner : Mr.S.Anand Chandrasekar for
M/s.Sarvabhauman Associates

ORDER

This Civil Revision Petition has been filed to to strike off the order dated 10.04.2024 passed in D.V.C.No.34 of 2023 (CNR No.TNTL14-008105-2023) on the file of District Munsif cum Judicial Magistrate, Shengottai.



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2.The facts in brief:

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D.V.C.No.34 of 2023 was initiated by the respondent herein under Section 12 of the Domestic Violence Act stating that the marriage between the parties was took place on 20.08.2023 at Sivakasi; At the time of marriage, she was provided with sufficient seervarisai and customary gifts, etc.; After the marriage it came to know that the revision petitioner was addicted to liquor; Often coming to the house in a drunken mode, causing assault, did not take care of the house hold expenses, ect.; She was abused; Her character was doubted; Apart from that the revision petitioner demanded Rs.1 lakh as dowry; She was driven out of the house on 18.11.2023. At that time, she was pregnant. Claiming various reliefs under Section 12 of the DV Act, she filed the petition before the trial Court.

3.The revision petitioner did not appear in spite of receipt of notice. So he was set exparte and order was passed directing the revision petitioner to pay a sum of Rs.3,00,000/- as compensation and Rs.10,000/- as cost, granting protection order and return of 5 sovereigns of gold jewels and the articles gifted at the time of the marriage, etc. Against



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which, this revision is preferred.

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4. Even at the time of admission, this Court is not inclined to entertain the revision on the ground of maintainability. So the revision petitioner was directed to advance arguments on the ground of maintainability and for that purpose, he relied upon the Judgment of this Court made in the case of ***Dr.P.Pathmanathan and others Vs. V.Monica and others*** reported in ***2021 (2) CTC 57*** and would submit that when the trial Court has not exercised the jurisdiction vested in it properly or when there is illegality in the procedure and perversity in the findings, remedy will lie under Article 227 of the Constitution of India directly to this Court without exhausting the appeal remedy.

5. I am unable to agree this line of argument for the simple reason that there is clear indication in the order itself that notice was sent to the revision petitioner. But, in spite of the notice, he remained exparte. This is the factual aspect. Whether proper service of notice was effected upon the revision petitioner is beyond the scope of the revision. When appeal remedy is available to redress his grievance, directly approaching this



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Court under Article 227 of the Constitution of India is impermissible under law. Moreover as cited out in the **Dr.P.Pathmanathan's** case none of the ingredients are attracted warranting interference by this Court under Article 227 of the Constitution of India.

6.Since the exparte order was passed, liberty is always available to him to approach the concerned Court with proper petition to set aside the exparte order or file an appeal. So I am of the considered view that the revision itself is misconstrued one. So the revision is not maintainable even for admission. But, liberty is granted to the revision petitioner to workout his remedy through proper proceedings.

7.With the above said liberty, this civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

31.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

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- 1.The District Munsif cum Judicial Magistrate, Shengottai.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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