

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.06.2015

DELIVERED ON : 10.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.13306 of 2015

1.P.Jeyaseelan
2.P.Sekaran
3.Gnanambal
4.Usha
5.Shanthi
6.M.Vijaya
7.Vimala
8.Jeya
9.Rathiga

..Petitioners

Vs

B.Kalaiyarasi

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in M.C.No.115 of 2014 pending on the file of the XXIII Metropolitan Magistrate Court, Saidapet, Chennai, quash the same.

For Petitioner : Mr.N.Rajan

ORDER

This is a petition to quash the Domestic Violence Act proceedings initiated by the respondent against the petitioners herein.

2. It is the case of the respondent that she got married to the first petitioner on 27.04.1995 and that she was subjected to cruelty by the first petitioner. The first petitioner suspected the paternity of the child in her womb and on account of that, his parents and relatives subjected her to untold cruelty. The first petitioner also filed a Divorce Petition in HMOP No.143 of 1996 stating that, the child is not his and after grueling trial and DNA examination it was found that, it was the first petitioner who had fathered the child and HMOP No.143 of 1996 was dismissed. Despite that, the respondent wife was not rehabilitated and she was subjected to further cruelty by the family members of the first petitioner. Therefore, the respondent/wife lodged a police complaint against the first petitioner and his family members, pursuant to which a case in Cr.No.16 of 2004 was registered and after completing the investigation, the police filed a Final Report in C.C.No.484 of 2005 before the learned Judicial Magistrate, Alandur, Chennai for offences under Sections 498-A, 494, 406, 506 (ii) IPC and Section 4 of Dowry Prohibition Act. The trial in the

said case has commenced and when the petitioners filed an application for quash in CrI.O.P.No.13339 of 2015, this Court has dismissed the same.

3. The learned counsel for the petitioners submitted that the Domestic Violence Act itself came into force only in the year 2005, but the parties were estranged much before 2005 and the provisions of Domestic violence Act will not apply. I am unable to appreciate this argument for the simple reason that, the marital status of the parties has not been severed and for neglecting to maintain the respondent/wife, she is entitled to approach the Court, invoking the provisions of Domestic Violence Act, the object of which is to provide succor for hapless women. Domestic Violence Act is not a penal law in the stricto sensu of the term and was intended to provide benefits for abandoned women. In this case, this Court finds that the respondent has been subjected to untold cruelty by the first petitioner and his family members by unnecessarily suspecting the paternity of the child in her womb. The allegations were proved to be false in the proceedings in HMOP No.143 of 1996 and the Divorce Petition filed by the first petitioner was dismissed. Unable to maintain herself, the respondent has been knocking for justice everywhere and ultimately, she has filed the present application under the Domestic violence Act, which requires to be enquired into. Since there are sufficient materials disclosed in the petition warranting a full fledged enquiry, this Court is of the view that this is not a fit case to quash the proceedings and accordingly, the same is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

gms
To

1.XXIII Metropolitan Magistrate Court, Saidapet,
Chennai.

1 cc to Mr.N.Rajan , Advocate Sr.No.28011

CrI.OP No.13306 of 2015

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pmk.29.6.2015