

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 15.07.2015

Delivered on : 24.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.No.17532 of 2015

and M.P.Nos.1,2 of 2015

1.M.Sundaresan
2.M.Kousalya
3.M.Manimozhi
4.N.Shanthi
5.M.Manivasagam

... Petitioners

Versus

S.Skylabdevi

.. Respondent

Criminal Original petition filed under Section 482 of the Criminal Procedure Code praying to call for the records in CC.1635 of 2015 on the file of the V Metropolitan Magistrate, Egmore, Chennai and to quash the same.

For Petitioners : Mr.D.Vijayababu

O R D E R

This petition has been filed to quash the proceedings in CC.1635 of 2015 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai.

2. Heard the learned counsel for petitioners and perused the materials placed on record.

3. It is the case of the respondent that she got married to the 1st petitioner on 29.06.2011 and after marriage, she lived with her husband, in-laws in her matrimonial home. It is alleged by the respondent that the 1st petitioner left her on 24.02.2012 in the guise of getting blessings from his mother as 25.02.2012 was his birthday and thereafter, never returned to matrimonial home.

4. It is seen that the 1st petitioner has filed a divorce proceedings in HMOP.No.122 of 2014 against the respondent for divorce

which is pending. While so, during the pendency of the divorce proceedings, the respondent/wife has initiated Domestic Violence Act proceedings which is challenged in this quash application.

5. Mr.D.Vijayababu, learned counsel appearing for the petitioners placed reliance on the Judgment of the Supreme Court in Inderjit Singh Grewal Vs State of Punjab and Another [2011] 12 SCC 588 and submitted that the Domestic Violence Act petition should have been filed within one year from 24.02.2012 in the light of Section 468 Cr.P.C.

6. On a close reading of the aforesaid judgment, it is apparent that after divorce was granted on 20.03.2008, the wife in that case filed Domestic Violence proceedings and in those circumstances, the proceedings were quashed by the Hon'ble Supreme Court. Here, the divorce proceedings were initiated by the 1st petitioner and the same is pending.

7. The respondent who is unable to maintain herself claimed maintenance of Rs.15,000/- per month from the petitioners. Therefore, the complaint cannot be quashed on the ground of limitation as contended by the learned counsel for the petitioner, since limitation is also a question of fact which cannot be gone into in a proceedings under Section 482 Cr.P.C. On a reading of the complaint, there are enough allegations against the petitioners warranting a full fledged enquiry.

8. In the result, the petition is devoid of merits and dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1. The V Metropolitan Magistrate, Egmore.

+1cc to Mr. D.Vijayababu, Advocate sr.no.37648.

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ts[co]
srg 04.08.2015