

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.14251 of 2014

and

M.P.Nos.1 and 2 of 2014

1.Haja Najmudeen
2.Rahmath Nisha
3.Jannath Nisha
4.Sharmila

.... Petitioners/Accused

Vs

1.Kamarunnisha
2.Abdullhai [Minor]
3.Jeevaitharasmiya [Minor]
Minors rep by their mother Kamarunnisha

.... Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to CMP No.3045 of 2014 on the file of the Judicial Magistrate, Thiruthuraipoondi and quash the same.

For Petitioners : No Appearance

For Respondents : Mr.S.M.Hameed Mohideen

ORDER

This petition has been filed to call for the records relating to CMP No.3045 of 2014 on the file of the Judicial Magistrate, Thiruthuraipoondi and quash the same.

2. Heard the learned counsel for the petitioners and the learned counsel appearing for the respondents.

3. On 11.03.2015 when the case was called, there was no representation for the petitioners. Again on 26.06.2015 when the case was called, there was no representation for the petitioners. Therefore, this Court posted the case to today. Today also there is no representation for the petitioners.

4. Learned counsel for the defacto complainant is present. Therefore, this Court went into the entire records and also the

grounds raised by the petitioners. It is seen that the first petitioner was married to the first respondent on 06.05.1990 and they have two children through the wedlock. Their marriage ran into rough weather resulting in the first respondent being neglected by the first petitioner and his family members. Therefore, the first respondent approached the learned Judicial Magistrate, Thiruthuraipoondi in CMP No.3045 of 2014 under the Domestic Violence Act for various reliefs, including relief of maintenance. The petitioners have challenged the Domestic Violence Act proceedings in this quash petition.

5. The main contention of the petitioners is that, the first petitioner had pronounced Talaq and therefore, the marriage has been terminated, on account of which the D.V. Act proceedings cannot be quashed. According to the respondent, no Talaq has been pronounced. Be that as it may, whether Talaq was pronounced or not is a question of fact, which cannot be gone into by this Court under Section 482 Cr.P.C.

6. On a reading of the complaint given by the first respondent, there are sufficient materials for the Magistrate to proceed with the enquiry. The petitioners have been enjoying a stay since June 2014 to the prejudice of the first respondent and her children, who are left in the lurch. Since this Court finds that there are sufficient materials for the D.V. Act proceedings to go on, this is not a fit case in which the proceedings can be quashed.

In the result, this petition is dismissed. Consequently, connected petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

gms
To

Sub Assistant Registrar

1. The Judicial Magistrate,
Thiruthuraipoondi.
2. - Do - Through The Chief Judicial Magistrate,
Tiruvarur.

+2cc's to Mr.S.M.Hameed Mohideen, Advocate, S.R.No.12396

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MG(CO)
CA(14/07/2015)