

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.04.2015

Coram

THE HONOURABLE MS. JUSTICE K.B.K.VASUKI

Crl.O.P.No.31983 of 2013
and MP.Nos.1 & 2 of 2013

1.Santhanalakshmi
2.A.P.Shanmugam
3.Nagarathinam
4.Saraswathy
5.Sivanantham
6.Varun Babu

... Petitioners/Accused No.2 to 7

Vs.

R.Janani

... Respondent/Complainant

Prayer : - Criminal Original Petitions filed under Section 482 Cr.P.C. to call for the records relating to the complaint in DVA.No.46 of 2013 on the file of the Judicial Magistrate No.VII, Coimbatore and to quash the same as far as the petitioners are concerned.

For Petitioners : Mr.I.Abrar Md.Abdullah
For Respondent : Mr.N.Ponraj.

ORDER

The accused A2 to A7 in DVA.No.46 of 2013 on the file of the Judicial Magistrate No.VII, Coimbatore are the petitioners herein.

2.The first petitioner herein is the mother-in-law, the petitioners 2 and 3 are the maternal grand parents of husband A1/Sripathi, the fourth petitioner is the close relative of the husband and the petitioners 5 and 6 are the brothers of the first respondent/husband of the respondent/complainant/Janani. The criminal original petition is filed to quash the proceedings in DVA.No.46 of 2013 initiated against the husband and the petitioners herein by invoking Section 12 of the Protection of Women from Domestic Violence Act 2005.

3.The few facts admitted herein are that the respondent got married to A1/Sripathi on 13.03.2013 and after the marriage, they lived together in the matrimonial house upto 28.03.2013, on which date, the complainant was taken to her parents house and she was again taken back to the matrimonial house on 31.03.2013 and she returned to Bangalore on 01.04.2013 where she was employed and came

back to her parents house on 06.04.2013 and thereafter left to Singapore to join her husband on 19.06.2013 and returned to India on 03.07.2013 and from that date onwards, the respondent complainant has been living with her parents.

4.The allegations raised in the complaint are that while the complainant was staying in the matrimonial house for few days, she was tortured by her husband and the mother-in-law was always scolding her at the instigation of other respondents, by demanding her to transfer the property owned by her in the name of her husband. The respondents always harassed her by demanding more dowry and she was treated as slave by the respondents and she was not helped by any one in the domestic work. The complaint further proceeds to say that while she was taken back to her parents house, the husband took back the valuables and A1 on 31.03.2013 went to the complainant house along with A2 and A3 and again demanded to transfer the property, failing which, threatened not to allow her to live with her husband A1/Sripathi and she was taken to the matrimonial house on the assurance that the transfer will be effected within short period and was again tortured and returned back to her parental house and she was brought back to her matrimonial house on 27.04.2013 and again was harassed to transfer the property standing in her name and she was not taken inside the airport when she went to the airport to see of her husband to Singapore and she was compelled to return to her parental house and again she was demanded Rs.1,00,000/- by her husband and was fully neglected by the husband who according to the complainant having affair with various girls. She was sent to Singapore, she was again put to suffering by the acts of domestic violence caused by A1 and she was compelled to return back to India to her parents house and the husband returned to India on 03.07.2013 but did not take any steps to contact her and she was not informed about his return. Whileso, panchayat was held but ended in vain and the husband came to house on 07.08.2013 and scolded her with filthy language and the husband again came to her house along with the relatives who threatened her with dire consequences in filthy language and the same compelled the complainant to come forward with the complaint on 25.08.2014 before the All Women Police Station, Perur. On receipt of the complaint, the same was registered as CSR.No.310 of 2013 and a report was called for from Social Welfare Officer and on the basis of the report dated 18.11.2013 from the social welfare officer to the police station on 21.11.2013, the case was registered in All Women Police Station, Perur Cr.No.40 of 2013 against her husband, mother-in-law, grand father, grand mother, brothers Sivanandam and Varunbabu and one Kumar, who was the maternal uncle of her husband.

5.During the pendency of the other complaint in All Women Police Station, Perur, the petitioners have come forward with the present petition to quash the proceedings initiated under Domestic Violence Act, mainly by denying the allegations raised against them in the complaint. According to the petitioners, the allegations raised in

the complaint against them are vague and baseless and do not make out any specific overtact. It is their further case that as they have been living separately, they have been falsely implicated without their involvement in any manner in the matrimonial dispute between the husband and the wife.

6. Whereas, the relief sought for herein is seriously opposed by the respondent/wife. According to whom there are sufficient allegations raised in the complaint which do prima facie make out the case against the petitioners.

7. Heard the rival submissions made on both sides and perused the records.

8. The present complaint is filed under DV Act against the husband, mother-in-law, grand parents, brothers and other relatives of the husband. This complaint is the second complaint of its nature and the same is proceeded by the complaint registered in All Women Police Station, Perur in Cr.No. 40 of 2013 on 22.11.2013 on the basis of the social welfare officer report. As far as, the petitioners herein who are the mother-in-law, grand parents, brothers and close relatives of the husband are concerned, as rightly pointed out by the learned counsel for the petitioners the allegations are very vague and bald in both the complaints. The reading of the complaint would reveal that the major part of the allegations raised therein are against A1/husband and about his demand for transfer of property owned by her in his name and about the alleged harassment meted out to her in his hands within India as well as in Singapore.

9. As far as the petitioners 3 to 7 are concerned there are no specific allegations raised against them. The allegations made against them are very general in nature to the effect that the respondent was harassed and tortured by them in the matrimonial house. As a matter of fact, they were not even referred to by their names. That being the nature of the allegations raised herein they cannot be subjected to an ordeal of trial. The allegations raised against the second petitioner grand father are also similar in nature and the complainant except referring to the presence of the grand father along with the husband in her house on 31.03.2013 and in the matrimonial house on 27.04.2013, has not raised any specific allegations regarding specific overt act constituting an act of demand for dowry and an act of harassment against the grand father. That being so, no criminal prosecution can be allowed to go on for such bald allegation against the grand father, who was aged about 74 years at the time of occurrence.

10. Regarding the allegations raised against the mother-in-law is concerned, it is stated in paras 2, 3 and 4 of the complaint that the mother-in-law always used to scold her to comply with the demand made by the husband. It is further stated in para 5 of the complaint that the husband came to the parents house along with the mother-in-

law and the grand father and demanded her to transfer the house. As rightly pointed out by the learned counsel for the petitioners, such allegations are very general and vague in nature and do not constitute any act tantamounting to Domestic Violence Act insofar as the petitioners herein are concerned.

11.The allegations raised in para 5 against all the petitioners as if they brought her back to matrimonial house on 27.04.2013, where the husband and others again started pressing her to register her property in the name of her husband. At this juncture, the learned counsel for the petitioners would draw the attention of this court to the allegations made in the complaint registered as FIR in Cr.No.40 of 2013, wherein the complainant has come forward with the different theory as if her husband did not come to her parents house to see her and he left to Singapore without informing her. Such theory will falsify the allegations raised in paras 5 and 6 of the complaint filed under DV Act. The alleged last occurrence involving the participation of mother in law is dated 09.08.2013 in the parents house. It is only stated in para 8 at page 5 of the complaint that all the relatives came to her house and demanded more dowry and threatened her and her parents with dire consequences and used filthy language. Whereas the complainant has not chosen to raise any specific allegation against the mother-in-law insofar as the incident occurred on 09.08.2013.

12.The reading of the allegations raised in the complaint on the whole would only disclose that the complainant has while charging her husband with serious and specific allegations chosen to introduce bald and vague allegations without attributing any specific overt act against all his family members including that of the old grand parent. In the absence of any specific allegations against the petitioners which do make out prima facie case against them, no criminal proceedings can be allowed to go on against them and the same would amount to abuse of process and would cause serious prejudice to the petitioners herein. As such, this Court is of the considered view that this is a fit case wherein the proceedings against the petitioners/A2 to A7 is in the interest of justice liable to the quashed.

13.In the result, the criminal original petition is allowed and the proceedings in DVA.No.46 of 2013 pending on the file of the Judicial Magistrate No.II, Coimbatore stands quashed insofar as the

petitioners are concerned. Consequently, connected miscellaneous petition is closed.

-sd/-

Assistant Registrar

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Sub-Assistant Registrar

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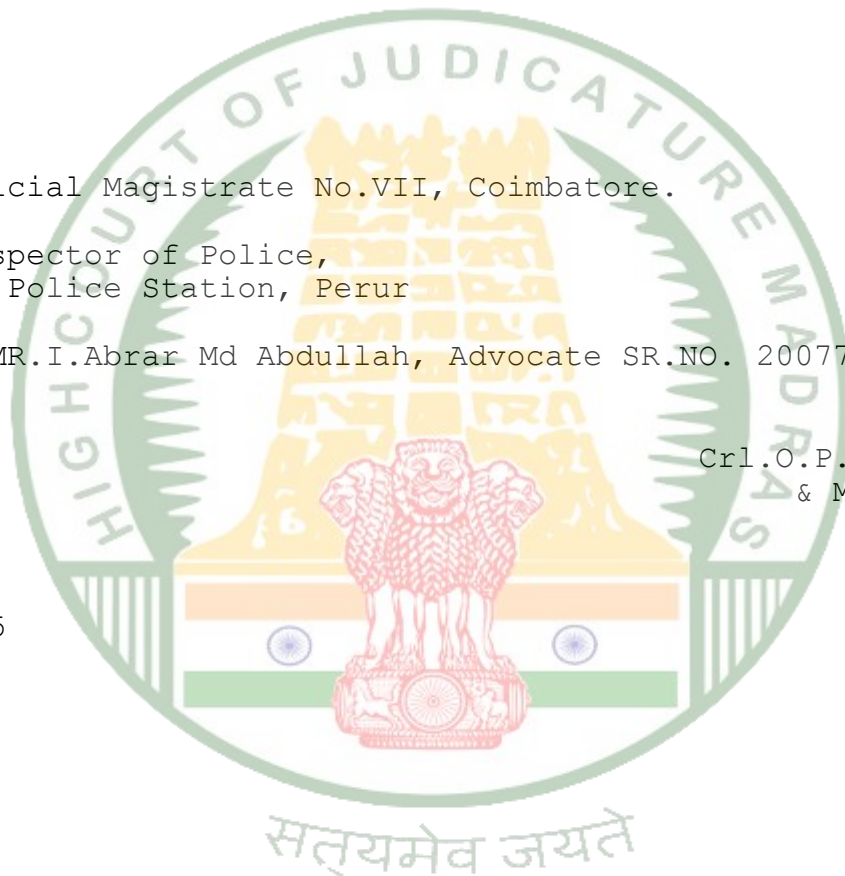
1 The Judicial Magistrate No.VII, Coimbatore.

2 The Inspector of Police,
All Women Police Station, Perur

+1 CC to MR.I.Abrar Md Abdullah, Advocate SR.NO. 20077

CrI.O.P.No.31983 of 2013
& MPS.1 & 2 of 2013

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