

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

Cr1.O.P.No.14758 of 2015
and
M.P.Nos.1 & 3 of 2015

1.Anantharaman Ramamoorthy
2.P.A.Subbulakshmi

... Petitioners

Vs.

Anilasha Venkataramanan

... Respondent

Prayer: Petition filed under Section 482 of Cr.P.C., praying to call for the records pertaining to the proceedings in M.C.No.8 of 2015 pending before the learned XVIII Metropolitan Magistrate, Saidapet and to quash the same.

For Petitioner : Mr.R.Mohandoss
(For Ms.T.Hemalatha)

For Respondents : Ms.Kanimozhi Mathi

ORDER

This petition has been filed by the petitioners praying to quash the proceedings in M.C.No.8 of 2015 pending before the learned XVIII Metropolitan Magistrate, Saidapet as against the petitioners herein.

2.The brief facts of the case are as follows:- The 1st petitioner herein is the husband of the respondent and the 2nd petitioner is his mother. The marriage between the 1st petitioner and the respondent herein was solemnized on 02.07.2015 at JYM Kalyana Mandapam, No.11, Venkatanarayana Road, T.Nagar, Chennai. At the time of marriage, the 1st petitioner was employed as Software Engineer at Cognizant Technology Solutions US Corporation (CTS) in Scottsdale, Arizona, USA, on a valid H1-B work visa issued in July, 2011. After the marriage, on 13.07.2014 the 1st petitioner left India to USA to resume his work and the respondent had resumed her employment in Chennai, while waiting for her dependent H-4 visa to be obtained from the US Consulate in Chennai and

during that period, the respondent was residing with her parents in Chennai. The 1st petitioner came back to Chennai from USA on 08.08.2014 to take the respondent along with him, after she had obtained her H-4 dependent visa. Both the 1st petitioner and the respondent left India to USA on 12.08.2014 by air as previously arranged. But, the respondent returned to India on 28.08.2014. It is the case of the respondent that no consummation took place between them due to the impotency of the 1st petitioner and that despite the request of the respondent, the 1st petitioner did not prepare to go for treatment for his impotency. Further, according to the respondent, the petitioners harassed the respondent. After returning to India, the respondent has filed M.C.No.8 of 2015 before the learned XVIII Metropolitan Magistrate, Saidapet, under Section 12 of the Protection of Women From Domestic Violence Act, 2005, against the petitioners. In the said MC, the respondent filed a petition in Cr.M.P.No.508 of 2015 seeking to pay interim maintenance to the respondent. The learned Magistrate, by order dated 16.02.2015, has passed an order directing the 1st petitioner to pay a sum of Rs.30,000/- per month to the respondent, pending the disposal of the maintenance case. Now, the petitioners have come forward with the present petition before this Court seeking to quash the proceeding in M.C.No.8 of 2015.

3.It is the main submission of the learned counsel for the petitioners that first of all, in the petition filed by the respondent seeking maintenance, the respondent had not stated that she is not able to maintain herself. Further, even on the date of filing the petition for maintenance, the respondent was working and earning income. The learned counsel for the petitioners would further submit that the Tax Deducted at Source (TDS From 26AS) records relating the respondent would show that the respondent is receiving interest from some security, which was not disclosed by her before the learned Magistrate. Further, the respondent is also owning residential premises with good rental income. That part, the respondent lived with the 1st petitioner only for a period of 16 days. Thus, the learned counsel for the petitioners seeking to quash the proceedings in M.C.No.8 of 2015 pending on the file of the learned XVIII Metropolitan Magistrate, Saidapet.

4.The learned counsel for the respondent has also made his submissions, opposing the prayer of the petitioners in the present petition.

5.But, irrespective of the submissions made on either side, from the perusal of the materials available on record, I find that the learned Magistrate has passed an order dated 16.02.2015 in Cr.M.P.No.508 of 2015 in M.C.No.8 of 2015, directing the 1st petitioner/husband to pay a sum of

Rs.30,000/- per month to the respondent, pending the disposal of the maintenance case. When that being so, the petitioners ought to have challenged the said order. Without doing so, the petitioners have come forward with the present petition to quash the proceedings in the main Maintenance case. The submissions made by the learned counsel for the petitioners in the present petition, can be made by them before the appropriate forum, by filing appropriate proceedings challenging the order dated 16.02.2015 passed by the learned Magistrate. Under such circumstances, I am not inclined to entertain the present petition and the same is liable to be dismissed.

In fine, the criminal original petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssv

To

1.The XVIII Metropolitan Magistrate,
Saidapet.

+1cc to Ms.Kanimozhi Mathi, Advocate, S.R.No.5573
+2cc's to M/s.T.Hemalatha, Advocate, S.R.No.2737(08.02.2016)

CrI.O.P.No.14758 of 2015
and
M.P.Nos.1 & 3 of 2015

CNR (CO)
CA(05/02/2016)

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