

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2016

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

Cr1.O.P.No.32580 of 2014

and

M.P.Nos.1 & 2 of 2014, 1 of 2015

R.Selvaraj

S/o.R.Samikkannu

...Petitioner/Respondent 4

-V.-

Mrs.V.V.Rethysree

W/o.S.B.Vinoth

...Respondent/Petitioner

PRAYER:

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for records in D.V.No.51 of 2014 on the file of the learned Judicial Magistrate No.VII, Coimbatore and quash the same as against the petitioner.

For Petitioner : Mr.Ganesh Rajan

For Respondent : Mr.R.Sivakumar

O R D E R

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

2. The present application has been filed by the 4th respondent in D.V.No.51 of 2014 on the file of the learned Judicial Magistrate No.VII, Coimbatore to quash the proceedings initiated by the respondent as against him stating that the respondent herein as petitioner has filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 seeking protection order, residence order, monetary relief, custody order and compensation order as provided under Sections 18 to 22 of the Act. In the said application, the petitioner herein was arrayed as 4th respondent.

3. The learned counsel appearing for the petitioner would put forth his arguments in two folds. The first limb of the argument is that the petitioner is not a relative to the respondents 1 to 3 in D.V.No.51 of 2014 and that he was falsely

implicated in the case. The second limb of the argument is that he is only the tenant in the house of the respondents 1 to 3 in D.V.No.51 of 2014 and that he has nothing to do with the problems in marital life of the first respondent in the main application. Hence, the learned counsel appearing for the petitioner prayed for quashing the proceedings.

4. Resisting the same, the learned counsel appearing for the respondent would submit that the petitioner is none other than the paternal uncle of the first respondent/husband and he is also residing in the same house along with the other respondents in D.V.No.51 of 2014. The said factum was also proved by way of filing family card and also the wedding invitation. The learned counsel would further submit that in paragraph 8 of the affidavit specific allegation has been leveled against the petitioner herein and hence, he prayed for dismissal of the petition.

5. At this juncture, the learned counsel appearing for the petitioner would submit that the name of the petitioner herein is R.Selvaraj, whereas the name specified in the wedding invitation is R.S.Selvaraj and both are different persons. He would further submit that there is no evidence to show that the petitioner herein is residing in the same house with the other respondents 1 to 3 in D.V.No.51 of 2014.

6. Considered the rival submissions made by both sides and perused the typed set of papers.

7. Now the point to be considered is whether the petitioner herein who is arrayed as 4th respondent in D.V.No.51 of 2014 is only a tenant or a relative to the respondents 1 to 3 in the main application?

Before considering the same, it would be appropriate to consider Section 2(q) of the Act.

2. Definitions.— In this Act, unless the context otherwise requires,—

(q) "respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner.

8. On perusal of the family card, it is seen that the name of Mr.S.Balakrishnan, aged 54 and the name of Mr.S.Selvaraj, aged 49 has been mentioned, which would show that they are

brothers. Further, the name of the tenant will not be included in the family card of the landlord. So, I am of the view that the first limb of the argument that the petitioner is a third party does not merit acceptance.

9. The second limb of the argument is that the petitioner has nothing to do with the marital life of the first respondent in D.V.No.51/2014. But, it is seen from the wedding invitation that the petitioner herein had also invited along with the 2nd respondent. Further, in paragraph 8 of the affidavit a specific allegation has been leveled against the petitioner herein stating that on 06.11.2011 the respondent herein was driven out of the matrimonial home by her in-laws and the 4th respondent/petitioner.

10. In view of the above stated position, I am of the view that the reason assigned by the petitioner to quash the proceedings as against him does not merit acceptance and hence, the Criminal Original Petition is dismissed as devoid of merits. However, the Trial Court is directed to dispose of the proceedings in D.V.No.51 of 2014 within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

The Judicial Magistrate No.VII,
Coimbatore.

+lcc to Mr.R.Sivakumar, Advocate, S.R.No.13026
+lcc to Mr.M.Ganesh Rajan, Advocate, S.R.No.12675

Crl.O.P.No.32580 of 2014

sv(CO)
srg(14/03/2016)