

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.2171 of 2011
and
M.P.Nos.1 & 2 of 2011

A.R.Venugopal

...

Petitioner

Vs

1.Sumathi

2.Minor Rajalakshmi

...

Respondents

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in D.V.A.No.45 of 2010 on the file of the learned Judicial Magistrate No.VI, Coimbatore, Coimbatore District and quash the same.

For Petitioner : Mr.D.Senthil
for M/s.N.Sudharsan

For Respondents : Mrs. M.Sumathi Venu
Party-in-person

ORDER

This Criminal Original Petition has been filed to call for the records in D.V.A.No.45 of 2010 on the file of the Judicial Magistrate No.VI, Coimbatore, Coimbatore District and quash the same.

2. When the matter is taken up for hearing, the learned counsel appearing for the petitioner sought for adjournment, which was rejected. The first Respondent Sumathi is present in- person.

3. It is seen that Sumathi got married to Venugopal on 03.09.1992 and they have two children through the wedlock. Since Venugopal and his family members had ill-treated Sumathi, she filed proceedings under the Domestic Violence Act in D.V.A.No.45 of 2010 before the Judicial Magistrate No.VI, Coimbatore, challenging which, Venugopal has filed the quash petition in the year 2011.

4. On a reading of the complaint lodged by Sumathi, it is

seen that she has stated various types of cruelty inflicted on her by Venugopal and that, Venugopal had not paid her children any money till date. Venugopal appears to have filed a petition in HMOP No.607 of 2006 for divorce and Sumathi has also filed a petition in HMOP No.526 of 2007 for restitution of conjugal rights before the Family Court, Coimbatore, and thereafter, the matter is now pending in appeal before this Court.

5. It is the contention of Venugopal that Sumathi cannot make multiple claims against him and therefore, he has challenged the Domestic Violence proceedings. Under Section 36 of the Domestic Violence Act, clearly states that the said Act is not in derogation of any other Law and that, it shall be in addition to it.

6. Under such circumstances, it cannot be stated that proceedings initiated by Sumathi under the Domestic Violence Act is not maintainable. It is also seen that Sumathi had initiated proceedings under the Domestic Violence Act in M.P.No.1440 of 2008 before the Judicial I Class Magistrate Court, Aluva, in Kerala State and she has stated that the same has been abandoned by her as she is not able to travel all the way to Aluva because of the distance. Since there are sufficient prima facie materials in the complaint in D.V.A.No.45 of 2010 filed by Sumathi, the same cannot be quashed.

In the result, the criminal original petition is dismissed. Consequently connected miscellaneous petitions are closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sms

To

The learned Judicial Magistrate No.VI,
Coimbatore, Coimbatore District.

4 ccs to M/s.Sumathi, Party in Person, Advocate, sr.44449

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