

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2016

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Crl.O.P.NO.8672 of 2010
and
M.P. Nos. 1 and 2 of 2010

1. Devayal
2. Sasikala
3. Murugasamy ... Petitioners

Vs.

S. Yamuna Devi ... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to quash the proceedings in CMP No.4666 of 2009 pending on the file of the Judicial Magistrate, Sathyamangalam, Erode District.

For Petitioners : Mr. C. Veera Raghavan

For Respondent : Mr. S. Parthasarathy

ORDER

The petitioners have come forward with this Criminal Original Petition to quash the proceedings initiated against them under Section 12(1) of the Protection of Women from Domestic Violence Act, 2005 in C.M.P. No.4666 of 2009, pending on the file of learned Judicial Magistrate, Sathyamangalam, Erode District.

2. A complaint has been given before the Social Welfare Officer and thereafter the matter has landed up before the Judicial Magistrate, Sathyamangalam. The first petitioner is the mother-in-law of the defacto complainant, the second petitioner is the daughter of the first petitioner and the third petitioner is the son-in-law of the first petitioner. For the sake of convenience, the parties are referred to as in the trial court.

3. The defacto complainant has stated that she has been harassed by the mother-in-law, sister-in-law and her husband and that listening to the words of the first petitioner herein, the husband of the defacto complainant started assaulting and harassing her and therefore she gave a complaint under section 12(1) of the Protection of Women from Domestic Violence Act, 2005, seeking, protection order under Section 18(i), residential order under Section 19, Maintenance order under Section 20 and Compensation order under Section 21 & 22 of the aforesaid Act. The matter has been taken up by the learned Judicial Magistrate and posted for appearance of the parties and that the parties have appeared and copy of the complaint has been furnished and time has been granted for counter statement. Thereafter, accused No.3 to 5, who are the petitioners herein, have filed the aforesaid Criminal Original Petition to quash the proceedings. Admittedly, there is no interim order. The said complaint would make it very clear that the defacto complainant and her husband were residing in the defacto complainant father's house for nearly four years and that the defacto complainant gave birth to a male child on 04.06.2003. Since the relationship between the husband and wife strained, he left the father-in-law's house and decided to reside in the petitioner's house and due to quarrel, the defacto complainant wanted to reside in a separate house. This was resisted by the petitioner herein and ultimately the matter has landed up before the criminal court under the Domestic Violence Act.

4. A reading of the complaint would make it clear that there are no averments or allegations against the second and third petitioners herein, under the Domestic Violence Act, stated to have been committed against the defacto complainant. Though the learned counsel for the respondent made an attempt to convince this Court stating that the Social Welfare Officer had also recorded statement of the defacto complainant and had submitted that the second and third petitioners have also harassed the defacto complainant, the complaint does not disclose the same. Hence, I find that there is a prima facie case, in the contention of the learned counsel for the petitioners, in so far as the second and third petitioners are concerned and the complaint so far as those petitioners are concerned stands quashed. So far as the relief sought for, by the first petitioner, mother-in-law of the defacto complainant, as there is a disputed question of fact involved in her case, it has to be dealt with, by the Domestic Violence Court. Further, in view of the judgment of the Hon'ble Apex Court in HMT Watches Ltd., Vs. M.A.Abida & Another reported in (2015(2) CTC 446), wherein, it has been held that quashing of a criminal complaint on the disputed question of facts cannot be entertained and it is a matter for trial to proceed with the criminal complaints, I find no reason to entertain the relief, as sought for by the first petitioner.

5. In the result, the Criminal Original Petition is allowed with regard to second and third petitioners and is dismissed with regard to the first petitioner. The Trial Court is directed to expedite the hearing of the case in CMP No.4666 of 2009 and proceed with the matter on a day-to-day basis and the matter shall not be adjourned beyond five working days, at any point of time and take a decision, as expeditiously as possible. Consequently, the connected M.Ps are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

avr

To

1. The Judicial Magistrate,
Sathyamangalam, Erode District.

2.The Public Prosecutor,
Madras High Court, Madras.

+1cc to M/s. S. Parthasarathy, Advocate, S.R.No.8892

SNS(CO)
EU(18/03/2016)

सत्यमेव जयते Cr1.O.P.NO.8672 of 2010
and
M.P. Nos. 1 and 2 of 2010

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