

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2016

CORAM

THE HONOURABLE JUSTICE P.N.PRAKASH

Crl.OP.No.23985 of 2016

and Crl.MP.No.11419 of 2016

L.Iyyappan ... Petitioner

Vs

I.Varalakshmi ... Respondent

Prayer:- Criminal Original Petition filed under Section 482 of Criminal Procedure Code praying to call for the records and to quash the proceedings under D.V.No.8 of 2016 on the file of the learned Judicial Magistrate Court No.I, Erode.

For Petitioner : Mr.R.Vijayan

ORDER

This Criminal Original Petition has been filed praying to quash the proceedings in D.V.No.8 of 2016 on the file of the learned Judicial Magistrate Court No.I, Erode.

2. It is seen that Varalakshmi has got married to Iyyappan and she has one child Dhanasri through wedlock. She and her child were left in the lurch. She had filed a petition in D.V.No.8 of 2016 before the learned Judicial Magistrate No.I, Erode, challenging which, Iyyappan is before this Court.

3. Heard the learned counsel appearing for Iyyappan. The learned counsel submitted that Varalakshmi had earlier filed a petition in M.C.No.63 of 2013 in the Family Court, Erode and she got order in her favour on 03.06.2015. The said order has been challenged by Iyyappan, who has preferred the criminal revision case in Crl.R.C.No.1314 of 2015 before this Court and had obtained stay. Therefore, it is obvious that Varalakshmi and her child have not been paid any maintenance till date.

4. The learned counsel also submitted that on the complaint lodged by Varalakshmi, a case in C.C.No.235 of 2014 was registered against Iyyappan before the Judicial Magistrate Court, Sathyamangalam, challenging which Iyyappan has filed Crl.OP.No.3024 of 2016, wherein this Court by order dated 09.06.2016 has quashed the prosecution in C.C.No.235 of 2014.

Further, the learned counsel submitted that Iyyappan had

filed divorce proceedings and divorce has also been granted in his favour. Therefore, the present petition filed by Varalakshmi in D.V.No.8 of 2016 is an abuse of process of law.

5. This Court is unable to countenance the submission of the learned counsel for the petitioner in the light of Section 36 of the Protection of Women from Domestic Violence Act, 2005, which clearly states that the provisions of the said Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.

6. Therefore, since there are prima facie materials in the complaint for a full-fledged enquiry, this Court cannot interfere at the threshold and quash the proceedings that has been initiated by Varalakshmi.

7. In the result, the petition is dismissed as being devoid of merits. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To
The Judicial Magistrate Court, I,
Erode.

+1 cc to Mr.R.vijayan,advocate,sr.62812.

ss(co)
krd 5/12

CRL.OP.NO.23985 of 2016

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