



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2016

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THE HONOURABLE DR.JUSTICE P.DEVADASS

Crl.R.C.(MD)No.278 of 2016 &
Crl.M.P.(MD).No.3716 of 2016 &
Crl.O.P.(MD).Nos.15184, 14258, 15020, 14267 & 14827/2016

Crl.R.C.(MD)No.278 of 2016

R.Vairam ... Petitioner/3rd Petitioner/
3rd Appellant
Vs.

V.Thenmozhi ... Respondent/Respondent/
Respondent

Prayer: Criminal Revision Petition is filed under Sections 397 r/w. 401 of Cr.P.C., against the order passed by the learned I Additional District and Sessions Judge, Madurai in Cr.M.P.No.222 of 2016 in C.A.No.6 of 2016 vide his order dated 30.03.2016 by which is so far as it relates to granting permission to the respondent to occupy the petitioner's house property situated at No.5/97 E, Ulaganeri, Narasingam Village, Y.Othakadai, Madurai (Residential Order) in terms of Section 19 r/w. 23(1) of the Protection Women Act, 2005.

Crl.O.P.(MD).Nos.15184 of 2016

1. Venkateshan
2. Veerapathiran, S/o.Velu ... Petitioners
in Crl.O.P.(MD)15184/2016

Vs.

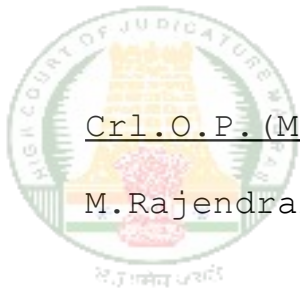
1.The Inspector of Police,
Melur Police Station,
Madurai District.

2.R.Karthick, S/o.Rajendran,
Vakkil Street, Ulaganeri,
Madurai District.

... Respondents
in Crl.O.P.(MD)15184/2016

Prayer in CRL OP(MD). 15184/ 2016 :

Petitioner is filed under section 482 of Cr.P.C. to call for the records relating to the petitioners in final report in C.C.No. 748 of 2015 on the file of the Judicial Magistrate Court, Melur, Madurai District in Crime No. 748 of 2015 on the file of the Respondent Police and quash the same as illegal



Crl.O.P. (MD) .Nos.14258 of 2016

M.Rajendran, S/o.Muthu

.. Petitioner
in Crl.O.P. (MD)14258/2016

-Vs-

1. The State rep.by
The Inspector of Police,
C4, Y.Othakadai Police Station,
Madurai District.
Cr.No.154/2016

2. V.Veerapathiran, S/o.V.Velu .. Respondents
in Crl.O.P. (MD)14258/2016

Prayer in CRL OP(MD). 14258/ 2016 :

The criminal original petition is filed under section 482 of Cr.P.C.to call for the entire records pertaining to the case in Cr.No.154 of 2016 pending on the file of the Inspector of Police,C4 Y.Othakadai police station,Madurai District and quash the same.

Crl.O.P. (MD) .Nos.15020 of 2016

1.R.Karthick, S/o.Rajendran
2.M.Rajendran, S/o.Muthu
3.R.Vairam, W/o.Rajendran

.. Petitioners
in Crl.O.P. (MD)15020/2016

-Vs-

1.The state rep.by
The Inspector of Police,
C4,Y.Othakadai Police Station,
Madurai District.
(Crime No.99/2016)

2.Kumaravel Pandian,
The Inspector of Police,
C4,Y.Othakadai Police Station,
Madurai.

.. Respondents
in Crl.O.P. (MD)15020/2016

Prayer in CRL OP(MD). 15020/ 2016 :

Petition is filed under section 482 of Cr.P.C. to call for the entire records pertaining to the case in Crime No. 99 of 2016 pending on the file of the Inspector of Police, C4, Y.Othakadai Police Station, Madurai District and quash the same.

Crl.O.P. (MD).Nos.14267 of 2016

1.R.Karthick, S/o.Rajendran
 2.M.Rajendran, S/o.Muthu
 3.R.Vairam, W/o.Rajendran

.. Petitioners
 in Crl.O.P. (MD)14267/2016

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-Vs-

1.The state rep.by
 The Inspector of Police,
 All Women Police Station,
 Manamadurai, Sivaganai District.
 Cr.No.24/2015

2.Thenmozhi, D/o.V.Veerapathiran

.. Respondents
 in Crl.O.P. (MD)14267/2016

Prayer in CRL OP(MD). 14267/ 2016 :

Petition is filed under section 482 of Cr.P.C. to call for the entire records pertaining to the case in C.C. No.195 of 2015 pending on the file of the learned J.M. Manamadurai sivagangai district and quash the same.

Crl.O.P. (MD).Nos.14827 of 2016

1.R.Karthick, S/o.Rajendran
 2.M.Rajendran, S/o.Muthu
 3.R.Vairam, W/o.Rajendran,
 No.5/97E, Ulaganeri,
 Narasingam Village,
 Y.Othakadai, Madurai

4.M.Dhanalakshmi, W/o.Mani

.. Petitioners
 in Crl.O.P. (MD)14827/2016

-Vs-

1.The state rep.by
 The Inspector of Police,
 C4,Y.Othakadai Police Station,
 Madurai District.
 (Crime No.346/2016)

2.Thenmozhi, W/o.Karthick

.. Respondents
 in Crl.O.P. (MD)14827/2016

Prayer in CRL OP(MD). 14827/ 2016 :

The Petitioner is filed under section 482 of Cr.P.C. to call for the entire records pertaining to the case in Crime No. 346 of 2016 pending on the file of the Inspector of Police, C4, Y.Othakadai Police Station, Madurai District and quash the same.

C O M M O N O R D E R

Since these Crl.R.C. and Crl.O.Ps. are connected on factual matrix and legal issues, they are tagged together, heard together and being disposed of this common order.

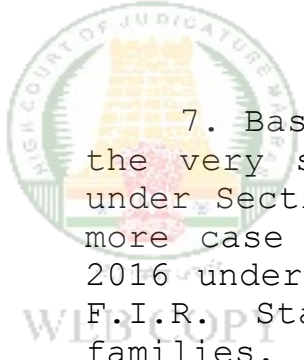
2. Thenmozhi is the daughter of Veerapathiran and Pappathi. Karthick is the son of Rajendran and Vairam. On 22.01.2015, the marriage between Karthick and Thenmozhi took place. Unfortunately, they were not blessed with any children. Thus, they have no issues but have issues.

3. On the complaint of Thenmozhi, the All Women Police Station, Manamadurai, Sivagangai District registered a case in Crime No.24 of 2015 for offences under Section 498-A I.P.C. and Section 4 of TNPHW Act. Investigation over. Final Report has been filed. Taken cognizance in C.C.No.195 of 2015 by the learned Judicial Magistrate, Manamadurai. So far no trial has been started.

4. Karthick also filed a criminal case as against his brother-in-law/Venkateshan and father-in-law/ Veerapathiran. Melur Police registered a case in Crime No.748 of 2015 under Sections 341, 294 (b), 323 and 506(i) I.P.C. Investigation over. Final Report has been filed. It is pending in C.C.No.1 of 2016 before the learned Judicial Magistrate, Melur. In this case also trial has not started.

5. Thenmozhi filed a petition under Domestic Violence Act as against her husband and in-laws before the learned Judicial Magistrate, Melur. The learned Magistrate take it on file in D.V.O.P.No.19 of 2015. In this, Thenmozhi succeeded. In the circumstances, Karthick and his parents have filed C.A.No.6 of 2016 before the Ist Additional Sessions Judge, Madurai. In the said C.A., in Cr.M.P.No.222 of 2016 Karthick and his parents have sought for stay of the order passed in D.V.O.P.No.19 of 2015. Since Karthick and his parents have got partial relief, they have filed Crl.R.C.(MD).No.278 of 2016. By this way, this matters came before this Court.

6. The fall out of the orders passed by the learned Judicial Magistrate, Melur in D.V.O.P.No.19 of 2015 is multiplication of certain cases. There were alleged disturbance to public peace near the house of Viram. The Inspector of Police, Othakadai Police Station registered an F.I.R. in Crime No.99 of 2016 under Section 107 Cr.P.C. It is pending as it is. Because, there would be no investigation, no filing of final report and no Calender Case and



7. Based on the complaint of Thenmozhi's father Veerapathiran, the very same police registered a case in Crime No.154 of 2016 under Section 188 Cr.P.C. Based on the complaint of Thenmozhi, one more case was registered by Othakadai Police in Crime No.346 of 2016 under Sections 294(b), 323, 342 and 506(ii) I.P.C. It is in F.I.R. Stage. These are case and case status between there families.

8. Now, instead of waiting for solution from the Court, they themselves have arrived at some peaceful solution. This is good.

9. Both sides have entered into some compromise, with reference to which, all the parties we have mentioned here before are also present before the Court today accompanied by their respective counsels.

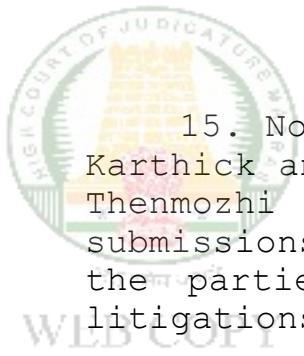
10. The parties have entered into a joint compromise. The gist of the same is that both sides have agreed to withdraw the criminal cases filed as against each on condition of Thenmozhi having been paid Rs.10 lakhs, who has also agreed to withdraw the proceedings pending before the learned I Additional Sessions Judge, Madurai which arose out of the DV Act case and also agreed to vacate the portion of the premises, situate in Narasingapuram, belonging to her mother-in-law Vairam

11. Thenmozhi had stated that today her husband side has paid her Rs.8 lakhs in cash. The balance is to be paid in two instalments at two stages. These two aspects have also been stated in their joint compromise memo.

12. Now, according to the learned counsel for the Karthick and his parents, now everything is over, except judicially putting an end the ongoing litigations. Actually, parties want to buy peace and each have decided to pursue their own way in their life. In such circumstances, in the interest of justice, it is a fit case that this Court can exercise its inherent jurisdiction under Section 482 Cr.P.C.

13. The learned counsel for them would also add that registering an F.I.R. under Section 107 Cr.P.C., is not contemplated under law. Further, under Section 188 Cr.P.C., registering a case based on the complaint of a private party viz., Veerapathiran is not in accordance with law in view of the bar contained in Section 195 Cr.P.C.. Further, he would add that under Section 188 Cr.P.C., promulgation of an order by a public servant is a must. But no such promulgation has been made in this case.

14. The said counsel also submitted that as part of the compromise, the said Thenmozhi also agreed to withdraw the proceedings pending under D.V.Act before the concerned Court.



15. Now, by the extensive arguments of the learned counsel for Karthick and others, the work of the learned counsel appearing for Thenmozhi and others has been lessened. He has reiterated these submissions. He also submitted that there is compromise between the parties and they have agreed to put an end to all the litigations.

16. The learned Government Advocate (Crl.side) would submit that now the prosecution is deprived of their cases. Police had lost their opportunity to show their mettle in prosecuting these cases. But they are not to stand in the way of Court passing appropriate orders to restore peace in these families.

17. With reference to the registration of a case under Section 188 Cr.P.C., the learned Government Advocate (Crl.side) would submit that there is an order passed by a public servant viz., Judicial Magistrate, Melur under the D.V. Act. That has given an opportunity for the Othakadai Police Station to put their hand on Section 188 I.P.C.

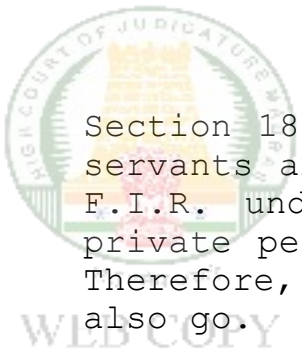
18. I have anxiously considered the submissions of the learned counsels and the bar and I have recorded the willingness of the parties viz., Thenmozhi, her parents, her brother, her husband Karthick and his parents to compromise the matter.

19. It is seen that the central focus for all these matters is the matrimonial discordance between Thenmozhi and her husband Karthick. Actually, they are the root cause for all these cases. They are the source for this litigation. Now, they want to bid good bye to each other.

20. In such circumstances, the Court should not stand in their way, more particularly, when it is a matrimonial matter. In this connection, we may refer to a three Judge Bench decision of the Honourable Supreme Court in (Gian Singh vs. State of Punjab and Another (2012) 10 SCC 303). If this litigation is allowed to continue it will be waste of public time and it will be a futile exercise. In the circumstances, in the interest of justice, these litigations should not be allowed to continue.

21. F.I.R has been registered in Crime No.99 of 2016 under Section 107 Cr.P.C. by the Othakadai Police. It is also intermixed with the family dispute which is going to be over in a peaceful manner. That apart, registration of an F.I.R. under Section 107 Cr.P.C., is not contemplated.

22. As rightly submitted by the learned counsels a case for an offence under Section 188 Cr.P.C., can be initiated only upon a complaint lodged by a public servant. Further an order should have been promulgated by a public servant. Judges pronounce orders. They are not promulgating orders. The word promulgation in



Section 188 Cr.P.C., refers to promulgating orders by such public servants and not by Judges. In such circumstances, registering an F.I.R. under Section 188 Cr.P.C., based on the complaint of a private person viz., Veerapathiran is not in accordance with law. Therefore, the F.I.R. in Crime No.99 of 2016 and 154 of 2016 must also go.

23. In winding up our discretion, we pass the following orders:

(i) CrI.O.P.(MD).Nos.15184, 14258, 15020, 14267 and 14827 of 2016 are allowed.

(ii) The entire criminal proceedings in C.C.No.195 of 2015 on the file of the learned Judicial Magistrate, Manamadurai, C.C.No.1 of 2016 on the file of the learned Judicial Magistrate, Melur and F.I.R. in Crime Nos.99, 154 and 346 of 2016 on the file of Y.Othakadai Police Station, Madurai are quashed.

(iii) In view of the compromise entered into between the parties, as decided by them, both side parties will appear before the learned I Additional Sessions Judge, Madurai in connection with the C.A.No.6 of 2016 on the file of the learned I Additional Sessions Judge which arose from D.V.O.P.No.19 of 2015 on the file of the learned Judicial Magistrate, Melur and the learned I Additional Sessions Judge will pass appropriate orders thereon in accordance with law. Accordingly, the CrI.R.C.No.278 of 2016 is disposed of.

Sd/-

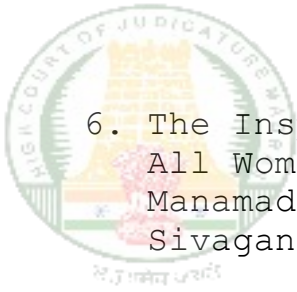
Assistant Registrar (CS-II)

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Sub Assistant Registrar

To

1. The I Additional District Judge,
Madurai.
2. The Chief Judicial Magistrate,
Sivaganai.
3. The Judicial Magistrate,
Melur.
4. The Judicial Magistrate,
Manamadurai.
5. The Government Advocate,
Madurai Bench of Madras High Court,



6. The Inspector of Police,
All Women Police Station,
Manamadurai,
Sivagangai District.

7. The Inspector of Police,
Melur Police Station,
Madurai.

8. The Inspector of Police,
Y.Othakadai Police Station,
Madurai.

+1cc to M/s.R.Anand, Advocate SR.No.46683

+1cc to M/s.R.Udhayakumar, Advocate SR.No.47307

Crl.R.C.(MD)No.278 of 2016 & Crl.M.P.(MD).No.3716 of 2016 &
Crl.O.P.(MD).Nos.15184, 14258, 15020, 14267 & 14827/2016

23.07.2016

Enclosed: Copy of Compromise Memo

akv

SD/SS3/01.09.2016/8P/11C