

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2017

(Orders reserved on 25.07.2017)

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.O.P.No.20390 of 2014

and

M.P.No.1 of 2014

1. Jayasree
2. Gunasekaran ... Petitioners/Accused 7 & 8

.. Vs ..

Madhubala ... Respondent/Petitioner

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the proceedings in D.V.O.P.No.8 of 2014 on the file of the learned Additional Mahila Magistrate, Salem, and quash the same.

For Petitioners : Mr.T.Balaji

for Mr.A.Thiyagarajan

For Respondent : Mr.S.Victor Prasath

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ORDER

This criminal original petition is filed under Section 482 of Cr.P.C., to quash the proceedings in D.V.O.P.No.8 of 2014 pending on the file of the learned Additional Mahila Magistrate, Salem.

2. The brief facts, which are necessary for determination of the case, are as follows:-

Accused Nos.7 and 8 in the D.V.O.P.No.8 of 2014 are the petitioners herein. The respondent married one M.Thamodharan on 14.02.2013. Her husband along with the petitioners demanded 10 sovereigns of gold jewels and cash of Rs.3 lakhs to purchase two Tata Ace vehicles as dowry. As the same was not given by the parents of the respondent, the respondent was tortured and caused mental and physical agony. Hence, the respondent herein has filed a petition for return of jewels, maintenance of Rs.15,000/- and compensation of Rs.2 lakhs from her husband and also prayed for injunction not to abuse and humiliate against the petitioners and others under Sections 18 and 18E of the Protection of Women from Domestic Violence Act (hereinafter referred to as the Act). The first petitioner is the sister-in-law of the respondent and the second petitioner is the husband of the first petitioner. They are living separately and they are in no way connected with any incidents.

3. Based upon the above facts, the learned counsel appearing for the petitioners submitted that the petitioners never lived together with the respondent under the same roof constituting joint family. The petitioners are living separately and there was no occasion or need to demand any money or jewels from the respondent. There is no domestic relationship between the petitioners and the

respondent and therefore, there is no domestic violence committed by the petitioners on the respondent and hence, the learned counsel for the petitioners seeks to quash the proceedings in D.V.O.P.No.8 of 2014 pending on the file of the learned Additional Mahila Magistrate, Salem, in respect of the petitioners alone.

4. Per contra, the learned counsel appearing for the respondent would submit that the first petitioner herein is the sister-in-law of the respondent herein and the second petitioner is the husband of the first petitioner and there is a specific overt act and allegation against the present petitioners and hence, prayed for dismissal of the criminal original petition.

5. Heard both sides and perused the records.

6. It is seen that the respondent herein namely Madhubala married one Thamodharan and their marriage was solemnized on 14.02.2013 as per the custom and rites at Rajaveni Thirumanamandabam, Jothi Nagar 4/1 Main road, Annanur, Chennai. According to the respondent herein, she was subjected to domestic violence by her husband and her relatives and there was a demand of dowry and the jewels given by her parents during the time of marriage were taken away by her husband's family and hence, she filed domestic violence case in D.V.O.P.No.8 of 2014 before the learned Additional Mahila Magistrate, Salem, seeking protection order Under Sections 18 and 18E of the Act and also monetary relief of compensation under Sections 20 and 22 of the Act.

7. Before the trial Court, husband of the respondent was arrayed as A.1 and brother-in-law of the respondent was arrayed as A.2. While the sister-in-laws of the respondent were arrayed as accused Nos.3, 5 and 7 and their respective husbands were arrayed as A.4, A.6 and A.8.

8. After perusing the complaint filed before the trial Court, this Court has come to a conclusion that there is no specific allegation as against the first petitioner namely Jeyasree and as such, she need not undergo the ordeal of trial and hence, the proceedings against the first petitioner/Jayasree/A.7 pending before the trial Court is not sustainable in law and the same is liable to be quashed.

9. With regard to the second petitioner herein namely, Gunasekaran/A.8, the attention of this Court has been drawn to the specific averment made in para No.8 of the complaint. Considering the scope of this Court under Section 482 of Cr.P.C., this Court is not expressing any view except to say that there are substantial allegations are available to proceed against the 8th accused viz., the second petitioner herein and in view of the specific allegations, the same has to be countenanced only during the time of trial and therefore, I am not inclined to accept the case in respect of the second petitioner herein.

10. In view of the discussion in the preceding paragraphs, the proceedings in D.V.O.P.No.8 of 2014 has to be quashed in respect of the first petitioner/A.7 alone and in respect of the second petitioner/A.8, the criminal original petition has to be dismissed.

11. In the result, the Criminal Original Petition is partly allowed and the proceedings in D.V.O.P.No.8 of 2014 pending on the file of the learned Additional Mahila Magistrate, Salem, is quashed only in respect of the first petitioner/A.7. Insofar as the second petitioner/A.8 is concerned, the Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

28.07.2017

Index : Yes / No

Internet : Yes

Jrl

To

The Additional Mahila Magistrate,
Salem.

RMT.TEEKAA RAMAN, J.

Jrl

Pre-Delivery order in
Crl.O.P.No.20390 of 2014

28.07.2017