

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2017

CORAM :

The Hon'ble Mr.JUSTICE M.SUNDAR

Criminal O.P.No.159 of 2014
and
M.P.Nos.1 and 3 of 2014

1.Santineer Vincent Rajkumar
2.Indra Rajkumar

.. Petitioners

Vs.

R.Rejitha

.. Respondent

Petition filed under Section 482 of Criminal Procedure Code seeking to call for the records of S.T.C.No.10791 of 2013 on the file of the Judicial Magistrate, Alandur and quash the same with respect to the petitioners herein.

For Petitioners : No appearance

For Respondent : No appearance

ORDER

When the matter was called today, there was no representation on both sides, i.e., there was no representation for the petitioners as well as the respondent.

2 It is seen that the petition before me being Criminal O.P.No.159 of 2014 has been filed with a prayer to quash a Summary Trial Case being S.T.C.No.10791 of 2013 on the file of the Judicial Magistrate, Alandur.

3 The date of the complaint before the Judicial Magistrate is dated 22.11.2013 to be precise. This quash petition is dated 17.12.2013.

4 It is also seen that an interim order being an order of stay in respect of both the petitioners has been granted by this court on 2.9.2014 and the same is operating.

5 Considering the length of time (3-1/2 years) and the nature of the matter, I am of the opinion that this is a fit case to be disposed of on merits on the available records and papers before this Court. In my opinion, adjourning such matters for merely because counsel on record are not responsible enough to appear before the court when the matter is listed and called, only contributes to avoidable pendency of cases in Courts and adds to avoidable arrears in courts.

6 The entire matter turns on a very narrow compass.

7 One R.Rejitha (sole respondent before me) has filed a complaint, alleging various offences under the Protection of Women from Domestic Violence Act, 2005 (43 of 2005) (hereinafter referred to as 'Domestic Violence Act' for the sake of convenience and clarity).

8 In the complaint on the file of the Judicial Magistrate, Alandur, the complainant Rejitha has arrayed her spouse, her father-in-law and mother-in-law as respondent Nos.1,2 and 3 respectively. Respondent Nos.2

and 3 therein, namely, the complainant's father-in-law and mother-in-law are the two petitioners before me (1st petitioner and 2nd petitioner respectively). In other words, the parents-in-law of the complainant are before me and their daughter-in-law is the sole respondent before me.

9 For the sake of convenience and clarity, two petitioners before me are collectively referred to as 'parents-in-law'. Individually, petitioner No.1 is referred to as 'father-in-law' and petitioner No.2 is referred to as 'mother-in-law'. The respondent is referred to as 'complainant'.

10 I have perused the complaint filed by the complainant. To be noted, it is dated 22.11.2013, as mentioned by me supra

11 The facts necessary for disposal of this criminal original petition, as can be culled out from the complaint, is that the complainant married Vikram K.Rajkumar (obviously son of parents-in-law) in 2012. It is the admitted case of the complainant that it was a love marriage.

12 Further averment in the complaint reveals that the marriage turned sour. The complainant has made several allegations against her spouse. The allegations are to the effect that the spouse was in debts, her spouse was unable to fend for the family, spouse being hounded by creditors, etc.,

13 Most importantly, it is categorically admitted by the complainant in the complaint that immediately after the marriage, the matrimonial home was at No.25, Kothari Nagar, 1st Street, Ramapuram, Chennai-600 089.

There is also a specific averment that the complainant and her spouse used

to go to their parents-in-law's place in weekends only. It is also categorically admitted in the complaint (paragraph 12 of the complaint to be precise) that the residence of her parents-in-law was at No.22, Jai Balaji Nagar Extn., Nesapakkam, K.K.Nagar West, Chennai-600 078.

14 Be that as it may, the complaint also says that after residing in Ramapuram at the aforesaid address immediately after wedding, the couple shifted in June 2013 to No.10, Beeman Lane, Alandur, Chennai-600 016.

15 Thereafter, there is a reference to a complaint given by the complainant's spouse against her and she being summoned by the police authorities.

16 Thereafter, there is some allegation regarding demand of dowry.

17 To be noted, though the complainant has arrayed her spouse and both parents-in-law as respondents in the complaint, only parents-in-law, who have been arrayed as respondent Nos.2 and 3 therein, have sought quashing of the complaint. Further, to be noted, parents-in-law have sought quashing of complaint only as against them. In this context, it is necessary also to refer to the interim order of this court dated 2.9.2014, wherein and whereby this Court has not only made it clear that interim stay of trial is only in respect of the petitioners herein (parents-in-law) and has also directed the trial court to proceed with the case being S.T.C.No.10791 of 2013 in respect of the spouse, who is respondent No.1 therein. Therefore, it is to be presumed that the said STC would have progressed against the spouse of the complainant. It may or may not have reached its logical end. However that is not of any relevance qua disposal of this quash petition.

18 Be that as it may, most important and significant aspect is that from the uncontroverted averments in the complaint as alluded to supra, it is clear that the complainant did not live along with her parents-in-law in the matrimonial home together under the same roof. As noted supra elsewhere in this order, parents-in-law were living in K.K.Nagar, whereas the matrimonial home of the complainant and her spouse were elsewhere (two different addresses as set out surpa).

19 Turning to the quash petition before me, it is seen that the quash petition is also predicated on the pivotal ground that the complainant was not living with her parents-in-law under the same roof and therefore, Domestic Violence Act is not attracted. There is also a specific plea taken qua petitioner No.2 to the effect that petitioner No.2 (who is the mother-in-law of the complainant) is not a 'respondent' within the meaning of Section 2(q) of the Domestic Violence Act.

20 A perusal of the Domestic Violence Act shows that definitions of 'aggrieved person', 'domestic relationship' and 'respondent' as set out in the definition section, i.e., Sections 2(a), 2(f) and 2(q) respectively of the Domestic Violence Act are very crucial.

21 I deem it appropriate to extract the said three definition clauses herein below. Section 2(a), 2(f) and 2(q) of the Domestic Violence Act read as follows :

“2.Definitions. In this Act, unless the context otherwise requires,--

(a)“aggrieved person” means any woman who is,

or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

(f)"domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;

(q)"respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner;"

22 When the complainant is not living under the same roof, Domestic Violence Act will not be attracted. I say so, by drawing inspiration from the parameter for scrutinizing such complaints as elucidated by the Hon'ble Supreme Court in *Preeti Gupta and another Vs. State of Jharkhand and another* [(2010) 7 SCC 667]. I deem it appropriate to extract paragraph 35 in *Preeti Gupta's* case, which reads as follows :

"35.The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these

complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinised with great care and circumspection."

(underlining made by me to supply emphasis)

23 In the instant case, as alluded to supra, even according to the uncontroverted averments as contained in the complaint, i.e., S.T.C.No.10791 of 2013 on the file of the Judicial Magistrate Court, Alandur, the complainant never resided with her parents-in-law in their address / house. There is only a faint averment in the complaint that the complainant visited her parents-in-law (with her spouse) in weekends.

24 Therefore, based on the uncontroverted averments in the complaint, I have no hesitation in coming to the conclusion that Domestic Violence Act is not attracted qua parents-in-law, who are petitioners 1 and 2 before me. The complaint deserves to be quashed with regard to parents-in-law.

25 Therefore, the Summary Trial Case, being S.T.C.No.10791 of 2013 on the file of the Judicial Magistrate Court, Alandur is quashed with regard to respondents 2 and 3 therein alone, i.e., Santineer Vincent Rajkumar

and Indra Rajkumar. As already directed by this Court in the interim order dated 02.09.2014, the complainant shall proceed against respondent No.1 therein and the learned Judicial Magistrate, Alandur is directed to dispose of the case as expeditiously as possible against respondent No.1 therein, if the complaint has not already been disposed of.

26 This Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

03.08.2017

Index : Yes

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To

Judicial Magistrate,
Alandur.



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M.Sundar, J.

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