

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 08.12.2017

Pronounced on : 21.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.16624 of 2014

and

M.P.No.1 of 2014 &

Crl.M.P.No.15414 of 2017

1.Usha
2.Senthil Kumar
3.Anitha
4.Suresh
5.Jacqueline

.. Petitioners

Vs.

Gayatri Gnaneswari

.. Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the D.V.O.P.No.25 of 2013 on the file of the learned Judicial Magistrate-II, Coimbatore and to quash the same.

For Petitioners : Mr.B.Kumarasamy

For Respondent : Mr.N.Manokaran

ORDER

Heard Mr.B.Kumarasamy, learned counsel for the petitioners and Mr.N.Manokaran, learned counsel for the respondent.

2.The respondent herein is the wife of one Karthik. The petitioners herein are the in-laws of the respondent herein. The respondent had married the said Karthik on 27.01.2013. According to the respondent herein, within a very short period, there arose certain disputes among themselves. Owing to this, she had initially given a complaint dated 25.07.2013 to the Inspector of police, B-9, Police Station, Saravanampatti, Coimbatore reporting about the harassment by her husband. Subsequently, she had withdrawn the complaint by stating that she intends to approach the appropriate Court of law seeking for mutual divorce. Thereafter on 26.07.2013, she again gave another complaint before the All Women Police Station, Puliakulam, Coimbatore requesting for action to be taken against her husband. Based on subsequent complaint dated 10.11.2013, an FIR came to be registered against the respondent's husband in Cr.No.1698 of 2013 for an offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Harassment Act.

3. In the meantime, the respondent herein had also filed a complaint under Domestic Violence Act before the learned Judicial Magistrate-II, Coimbatore on 12.08.2013. In the said complaint under the Domestic Violence Act, the respondent herein had impleaded the petitioners herein who are the in-laws, along with her husband and had sought for various reliefs including protection orders, return of sreedhana articles and compensation.

4. In this background of the various complaints given and the averments made in the complaint under Domestic Violence Case by the respondent herein against her husband, it is seen that the grievance of the respondent is against her husband alone. In the complaint registered against the respondent's husband in Cr.No.1698 of 2013, the respondent had specifically stated that her husband is not going for any job and is in the habit of drinking liquor. It is the specific allegations in the complaint that the respondent's husband had harassed her to get Rs.10 lakhs for the purpose of establishing a business. Even in the earlier complaints, before the police, the respondent had expressed her grievance only against her husband and there was no averments or allegations made against her in-laws.

5. Moreover, it is seen from the complaint that the petitioners herein never lived in the shared-household of the respondent during the respondent's brief matrimonial life and they were the residents of Nilgiris District. Even as per the complaint, the respondent had established her matrimonial house at Manikarampalayam at Coimbatore. As such, the only averment against the petitioners herein are the vague allegations that on 23.05.2013, the petitioners had joined along with the respondent's husband and demanded Rs.1 lakh and also assaulted the respondent owing to which she had fainted. She had further alleged therein that after she opened her eyes, all the petitioners herein had kicked her and further assaulted her and therefore, she again fainted. Apart from this averment, there are no other allegations made against the petitioners/in-laws. It is seen that though the allegations about the incident that occurred on 23.05.2013 was made against the petitioners herein, such a serious incident is conspicuously absent in her subsequent complaints dated 25.07.2013, 26.07.2013 and 10.11.2013 given before the police stations. On the other hand, in all these complaints her allegations were only about the harassment meted out by her husband alone. I am also unable to comprehend as to

why the respondent has not given any complaint on the incident dated 23.05.2013 to the police in this regard. In view of the same, it can only be concluded that the allegations against in-laws has been made only in wreak vengeance against her husband.

6.The relief sought for in the domestic violence case with regard to the sreethana articles, jewels and compensation can be made and claimed against her husband, who is already a party in that case. As stated earlier, the petitioners herein were not residing in the shared-household of the respondent and were residents of Nilgiris District. As such, the protection order sought for by the respondent herein in the domestic violence case against these petitioners/in-laws, based on the allegations, cannot be maintained in view of the fact that the allegations of harassment meted out by the petitioners against the respondent itself seems to be false. While that being so, there cannot be any act of any domestic violence as defined under Domestic Violence Act against these petitioners. In the absence of the same, the proceedings as against these petitioners cannot be maintained and consequently, the petitioners need not undergo the ordeal of facing a criminal trial.

7. In the result, the Criminal Original Petition stands allowed. Consequently, the proceedings in DVA. No.25 of 2013 on the file of the learned Judicial Magistrate-II, Coimbatore, insofar as it relates to the petitioners herein/A2 to A6 are concerned, is quashed. Connected Miscellaneous Petitions are closed.

8. Since the impugned proceedings in DVA.No.25 of 2013 is pending from the year 2013 onwards, it would be appropriate to direct the trial Court to expedite the trial. Hence, there shall be a direction to the trial Court to expedite the proceedings in DVA No.25 of 2013 and to complete the same, preferably within a period of six months from the date of receipt of a copy of this order.

21.12.2017

Speaking/Non Speaking
Index:Yes/No
Internet:Yes/No

DP

WEB COPY

To

1.The Judicial Magistrate-II, Coimbatore.

2.The Public Prosecutor,
High Court, Madras.



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M.S.RAMESH.J,

DP



**Order made in
Crl.O.P.No.16624 of 2014
and
M.P.No.1 of 2014 &
Crl.M.P.No.15414 of 2017**

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