

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.26053 of 2016 &
Crl.M.P.Nos.12927 & 12928 of 2016

1.A.C. Sudhakar
2.A.B.Chandrasekar
3.A.C.Kousalya
4.Premalakshmi
5.S.Sashikumar

..Petitioners

Vs.

Vinaya

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. Praying to call for the records relating to the complaint in D.V.A.No.12 of 2016 pending on the file of learned Judicial Magistrate No.V, Coimbatore and quash the same by allowing this Criminal Original Petition.

For Petitioners : Mr.N. Ponraj

For Respondent : Mr. K. Govi Ganesan

ORDER

While the 1st petitioner is the husband of the respondent herein, petitioners 2 to 4 are her father-in-law, mother-in-law and sister-in-law respectively and 5th petitioner is 4th petitioner's husband.

2.The petitioners herein have been made as party respondents in the proceedings initiated under Domestic Violence Act, which is under challenge in the present petition.

3.The case of the 1st petitioner is that he had married the respondent on 29.06.2014. According to the 1st petitioner, right from the date of marriage, the respondent has disliked him and refused to carry on matrimonial obligation with him. Subsequently, the respondent had filed a petition in H.M.O.P.No. 1133 of 2015 seeking for divorce on the ground

of cruelty, which is said to be pending. As a matter of fact, the 1st petitioner has also filed a counter in the proceedings under Domestic Violence Act wherein he has stated that that he has no objection for grant of divorce. That being so, the respondent herein had subsequently filed a petition under the Domestic Violence Act on 01.04.2016 against the petitioners herein.

4. On a perusal of the impugned complaint, it is seen that the respondent has sought orders for protection, Monitory reliefs and compensation against these petitioners. With regard to the specific averments against the 1st petitioner, who is the husband of the respondent herein, it is seen that various allegations have been made against him. Insofar as the other petitioners, who are the in-laws, are concerned, there are certain vague allegations like encouraging the 1st petitioner in drinking, suppression of fact that the 1st petitioner is impotent and insults to the respondent's parents ridiculing their financial

status. It is seen that in the petition filed for divorce, the respondent has made similar allegations against all the petitioners 2 to 5 herein. The question as to whether these vague allegations will constitute acts of Domestic Violence so as to hold them liable, for the purpose of relief sought for, needs to be addressed at the first instance.

5. On a perusal of the complaint, these vague allegations do not constitute acts of Domestic Violence as defined under Section 3 of the Domestic Violence Act. Under Section 3 of the Domestic Violence Act, any act, omission, commission or conduct of the respondent shall constitute Domestic Violence, if it harms or injures or endangers the health of any person including physical, sexual, verbal, emotional and economic abuse or harassment or threat or any other acts of causing injuries. Section 3 also provides for explanation as to what would constitute Domestic Violence Act, which includes the acts of physical, sexual, verbal and economic abuse.

6. The averments made in the present petition for Domestic Violence, do not fall under any of the aforesaid expressions nor under the Domestic Violence Act, as defined under Section 3 of the Act. Most of the allegations which have been made, are against the 1st petitioner, the husband of the respondent herein. These allegations are subject to proof through trial. In the absence of any allegations made against the petitioners 2 to 5, it would not be appropriate to make them to undergo ordeal of trial.

7. The Hon'ble Supreme Court in recent judgment in the case of ***PREETI GUPTA AND ANOTHER Vs STATE OF JHARKHAN AND ANOTHER*** [2010 (7) SC 667] has observed that unfortunately matrimonial litigation is rapidly increasing in our country and all the Courts are flooded with matrimonial cases. It is a matter of common experience that most of these complaints are filed in the heat of the moment over trivial

issues without proper deliberations. The Hon`ble Supreme Court has also observed that large number of such complaints are not even bona fide and are filed with oblique motive. While observing so, tendency of implicating husband and all his immediate relations is also widely prevalent.

8. The observation of the Hon'ble Supreme Court seems to be squarely applicable to the present case, where no serious allegations have been made against in-laws, so as constitute acts of 'Domestic Violence' as defined under the definition of Domestic Violence Act.

9. From the chain of events of the averments made against the 1st petitioner, who is the husband, it is seen that the respondent seems to have serious grievance against her husband for which purpose, her in-laws have been unnecessarily dragged into.

10. I do not see any reason, as to why the proceedings should continue as against the petitioners 2 to 5 herein.

11. In the result, the proceedings in D.V.A.No.12 of 2016 on the file of the learned Judicial Magistrate No.V, Coimbatore, is quashed insofar as it relates to the petitioners 2 to 5, who are all arrayed as accused Nos.2 to 5 in the Domestic Violence Act. The relief sought for against the 1st petitioner stands dismissed. The learned Judicial Magistrate No.V, Coimbatore is called upon to complete the trial as expeditiously as possible.

12. On the above terms, the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

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M.S.RAMESH, J.,

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