

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 09.10.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR**CRL OP(MD)No.13584 of 2017 and
CRL.M.P. (MD)No.9130 of 2017**

1. S.Subash
2. Chelladurai
3. Padmini

... Petitioners/Respondents 1 to 3

Vs.

S.Nithya

... Respondent/Petitioner

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in the petition in D.V.C.No.90 of 2017 on the file of the learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli, Tiruchirappalli District, and to quash the proceedings as against the petitioners herein initiated on the basis of the petition filed by the respondent.

For Petitioners : Mr.A.Thiruvadi Kumar

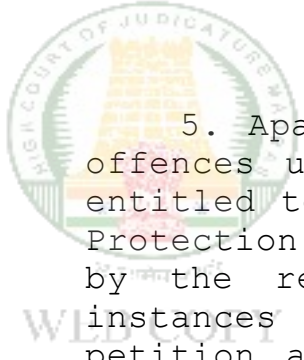
O R D E R

This Criminal Original petition is filed for quashing the proceedings in D.V.C.No.90 of 2017 on the file of the learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli, Tiruchirappalli District, as against the petitioners herein.

2. Heard the learned counsel appearing for the petitioner.

3. The petitioners state that the first petitioner is the husband of the respondent. Though the first petitioner married the respondent on 29.01.2010 and out of wedlock, the respondent gave birth to a son on 19.11.2010, there was misunderstanding between the first petitioner and the respondent.

4. It appears that the respondent/wife has earlier given a complaint as against the petitioners for the offences under Section 498(A) I.P.C., and other offences. The petition filed by the wife in D.V.C.No.90 of 2017 is under Section 12 of Protection of Women from Domestic Violence Act, 2005, for certain reliefs which are maintainable under the provisions of Protection of Women from Domestic Violence Act.



5. Apart from the criminal complaint that was lodged for the offences under Sections 498(A) and 323 I.P.C., the wife also is entitled to seek relief that are provided under the provisions of Protection of Women from Domestic Violence Act. The petition filed by the respondent in D.V.C.No.90 of 2017 discloses specific instances which give raise to the relief prayed for in the petition and the petition clearly discloses the cause of action for the petition and hence this Court does not find any reason to entertain this petition to quash the proceedings that is initiated by the wife.

6. Having regard to the serious allegations made in the petition filed by the wife as against the petitioners, this Court cannot entertain this petition only on the basis of the self serving statement of the petitioners. Disputed facts cannot be gone into by this Court at this stage in the proceedings to quash the petition which is filed by the wife seeking specific reliefs. Since the petitioners have not made any other legal ground to entertain this petition, this Court has no hesitation to dismiss the petition. Hence, the Criminal Original petition is dismissed.

7. The learned counsel for the petitioners seeks indulgence of this Court to dispense with the appearance of the petitioners before the lower Court.

8. It is open to the petitioners to file a petition to dispense with their appearance before the lower Court and the same will be considered on merits and in accordance with law by the lower Court. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate, Additional Mahila Court,
Tiruchirappalli, Tiruchirappalli District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.A.THIRUVADI KUMAR, Advocate SR.No.82038.

CRL OP(MD)No.13584 of 2017
09.10.2017