



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

CRL.OP.(MD) No.17298 of 2017

and

CRL.M.P.(MD) Nos.11346 and 11347 of 2017

1.S.Nagappan

2.S.Valliyammai

... Petitioners

vs.

Meenakshi

... Respondent

PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records and documents in connection with the DVC No.28 of 2017 on the file of the learned Judicial Magistrate, Karaikudi and quash the same.

For Petitioners

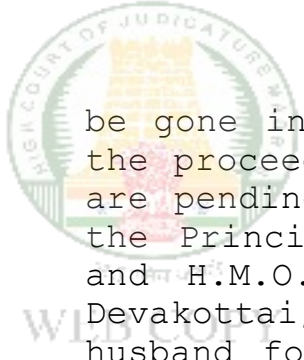
: Ms. Porkodi Karnan

ORDER

The Criminal Original Petition is filed to call for the records and quash the proceedings in DVC No.28 of 2017 on the file of the learned Judicial Magistrate, Karaikudi.

2.The first petitioner is the husband of the respondent and the second petitioner is the mother of the first petitioner. The respondent filed a petition under Section 19(8) of the Protection of Women from Domestic Violence Act, 2005 against the petitioners and the same is pending in D.V.C.No.28 of 2017 on the file of the learned Judicial Magistrate, Karaikudi. The relief claimed by the respondent / wife is only for returning of jewels and articles apart from the cash that was paid by the respondent's parents to the petitioners at the time of marriage. It is not in dispute that till 2015, the first petitioner and the respondent were living together.

3.Section 19(8) of Protection of Women from Domestic Violence Act, specifically provides relief for return of Sridhana articles and therefore there is a cause of action for filing the petition. The crux of otherwise of the allegations found in the petition filed by the wife under Section 19(8) of special enactment cannot



be gone into at this stage, where the petition is filed to quash the proceedings. Except referring to some of the petitions, that are pending between the parties namely, M.C.No.37 of 2013, before the Principal District Munsif cum Judicial Magistrate, Karaikudi and H.M.O.P.No.48 of 2013 pending on the file of Sub Court, Devakottai, which are filed by the wife for maintenance and by the husband for divorce, the learned Counsel for the petitioners has not made any other submission with regard to maintainability of the petition filed by the respondent for the relief prayed for in the petition. In such circumstances, this court is not inclined to entertain this petition.

4.The learned Counsel for the petitioners stated that the first petitioner is having custody of the child and he is employed in Bangalore and the second petitioner is the mother of the first petitioner, who is aged about 68 years old and seeks indulgence of this Court to dispense with the presence of the petitioners. Having regard to the peculiar circumstances of the case, the presence of the petitioners before the lower Court is dispensed with unless and until their appearance is specifically required by an order of Court.

6.In view of the, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate, Karaikudi.

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

+ 1 cc TO M/S.Polax Legal Solutions , Advocate in SR No. 93003

pnn/cmr

AE/SKN/SAR2/11.01.2018/2P/4C

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