



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 16.03.2017
CORAM

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.(MD)No.2607 of 2017

and

Crl.M.P.(MD)Nos.1996 and 1997 of 2017

1.N.Balamurugan
2.Kalimuthammal
3.Muthulakshmi
4.Subramaniam

: Petitioners/Accused Nos.1,2,3 and 5

Vs.

G.Anitha : Respondent/Complainant

Prayer:Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to pass an order to call for the proceedings in connection with M.C.No.5 of 2008 on the file of the learned Judicial Magistrate No.II, Ramanathapuram, Ramnad District and quash the same.

For Petitioners

: Mr.S.R.Rajagopal

For Mr.R.M.Makesh Kumaravel

O R D E R

It is the case of the respondent that she got married to the first petitioner, which is strongly disputed by the first petitioner. It is the further case of the respondent that the first petitioner had neglected to maintain her and provide accommodation for her. Therefore, she has filed M.C.No.5 of 2008 before the learned Judicial Magistrate No.II, Ramanathapuram against the petitioners, challenging which, the petitioners are before this Court.

2. Heard Mr.S.R.Rajagopal, learned counsel appearing for the counsel on record for the petitioners.

3. Mr.S.R.Rajagopal, learned counsel for the petitioners submitted that the first petitioner had not married the respondent at all and that he has filed H.M.O.P.No.51 of 2008 before the Sub Court, Ramanathapuram, for a decree of nullity of marriage against the respondent and the said case is pending. While so, the respondent has initiated this Domestic Violence proceedings against the first petitioner and all his family members claiming various reliefs, which is an abuse of process of law.



4. This Court gave its anxious consideration to the submissions of the learned counsel for the petitioners.

5. Section 36 of the Protection of Women from Domestic Violence Act, 2005 clearly states that the Domestic Violence Act is not in derogation of any other law. This means that just because H.M.O.P.No.51 of 2008 is pending, the proceedings under the Domestic Violence Act cannot be quashed. That apart, the Domestic Violence proceedings has been pending from 2008 and enquiry has begun before the learned Judicial Magistrate No.II, Ramanathapuram and, therefore, this Court cannot interdict the proceedings in exercise of powers under Section 482 of the Code of Criminal Procedure now.

6. In the result, this Criminal Original Petition is dismissed with liberty to the petitioners to raise all the points before the Trial Court. However, the presence of the petitioners 2 to 4 herein before the Trial Court is dispensed with on condition that they engage an advocate on special vakalat before the Trial Court and give an undertaking that they will not dispute their identity and their counsel will cross-examine the witnesses on the day when they are examined in chief. As and when their presence is necessary, the Trial Court shall issue notice to them through their counsel on record for their appearance. As regards the first petitioner herein, as and when an application for dispense with his presence is filed with sufficient reasons, the Trial Court may liberally consider the same. The Trial Court is also directed to complete the proceedings in M.C.No.5 of 2008, within a period of six months from the date of receipt of a copy of this order, provided the petitioners co-operate with the Trial Court in disposal of the case in M.C.No.5 of 2008. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub-Assistant Registrar

To

1.The Judicial Magistrate No.II, Ramanathapuram, Ramnad District.

2.Do through the Chief Judicial Magistrate, Ramanathapuram

+One cc to Mr.R.M.Makesh Kumaravel, Advocate, SR.No.15768

SML

RL/4C/2P/MR/28.3.2017

Order made in