

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 02.11.2018

CORAM
THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR
Crl.O.P.No.5511 of 2013
and
MP.No.1 of 2013

1. Malini
W/o.Ramesh

2. Ramesh
S/o.Sreedhar

... Petitioners/4th and 5th Respondents

Vs.

1.The Protection Officer,
Domestic Violence Act,
District Social Welfare Office,
District Collector's Office Complex,
Singaravelar Maligai, 8th Floor,
Rajaji Salai, Chennai-1.1st Respondent

2.K.Nisha2nd Respondent/Defacto Complainant

3.Mr.Girish Babu
(R3 implied as per the order of this Court dated 07.03.2013)
... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records in C.C.No.6364 of 2012 on the file of
the V Metropolitan Magistrate, Egmore, Chennai, quash the
proceedings as against these petitioners.

For Petitioner : Mr.K.S.Kumar

For Respondents: Mr.G.Ramar
Government Advocate (Crl.Side)
for R1

O R D E R

This Criminal Original Petition has been filed by the
petitioners, who are arrayed as A4 and A5 in C.C.No.6364 of 2012
on the file of the V Metropolitan Magistrate, Egmore, Chennai
and quash the same.

2. Heard learned counsel for petitioner and the learned
Government Advocate for respondent and also perused the
materials.

3. It is not a disputed fact that the petitioners are the sister-in-law and brother-in-law of the defacto complainant, who has lodged the complaint under the Domestic Violence Act. It is also not disputed that the marriage between one Girish Babu and the defacto complainant solemnised on 23.01.2005. After the marriage, both the husband and wife started their marital life separately and in fact, they lived in Dubai. These facts are not in dispute. Thereafter, it appears that after return from Dubai, the defacto complainant has lodged a complaint as against her husband and her in-laws on 07.09.2012.

4. On a careful perusal of the entire allegations in the complaint lodged by the defacto complainant dated 07.09.2012, it shows that the entire allegations have been made only against her husband and in-laws. No whisper whatsoever has been made as against these petitioners. This complaint is said to have been enquired by the Protection Officer, who in turn has filed the Domestic Incident Report before the Court, wherein, it is alleged that these petitioners have uttered abusive words against the defacto complainant. Except that, there is no other allegations leveled against these petitioners. Based on the report filed by the Protection Officer, the learned Magistrate took a cognizance and issued summons as against these petitioners.

5. The learned counsel appearing for the petitioner would contend that these petitioners are admittedly residing separately and they are not residing along with the defacto complainant and her husband. He would contend that they have been falsely implicated in the Domestic Incident Report, which is contrary to the complaint given by the defacto complainant. The specific dates have been given only to suit the convenience of the defacto complainant to show that she was allegedly abused by these petitioners. Only on the above dates, the defacto complainant was present in India. Till such time, she was all along residing in Dubai with her husband. The further contention of the learned counsel is that the marriage between the defacto complainant and her husband was dissolved by a decree of divorce on 11.06.2013. He would submit that there is absolutely no materials as against these petitioners in this case and hence, he prays to quash the proceedings in C.C.No.6364/2012.

6. These petitioners have been served summons only on the basis of the Domestic Incident Report, wherein, it is alleged that these petitioners uttered some abusive words on the defacto complainant. Except that, there is no materials have been shown in the Domestic Incident Report. Earlier, in the complaint given by the defacto complainant on 07.09.2012, absolutely there is no whisper whatsoever made against these petitioners for

causing any violence or uttering any abusive words. The entire allegations are only against the husband and in-laws of the defacto complainant and not against these petitioners. If really any such incident had taken place, same should have been found place in the earlier complaint. But, nothing has been found. Even the Domestic Incident Report does not indicate any serious allegations against these petitioners.

7. In the circumstances, I am of the view that continuing the prosecution as against these petitioners is nothing but abuse of process of law and the same is liable to be quashed.

8. Accordingly, this Criminal Original Petition shall stand allowed and the proceedings in C.C.No.6364 of 2012 on the file of the Learned V Metropolitan Magistrate, Egmore, Chennai, is hereby quashed. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kmi

To

1.The V Metropolitan Magistrate Court,
Egmore, Chennai.

2.The Protection Officer,
Domestic Violence Act,
District Social Welfare Office,
District Collector's Office Complex,
Singaravelar Maligai, 8th Floor,
Rajaji Salai, Chennai-1.

3.The Public Prosecutor,
High Court, Madras-104.

+1cc to Mr.K.S.Kumar, Advocate, S.R.No.75697

CrI.O.P.No.5511 of 2013
and
MP.No.1 of 2013

VBA (CO)

rrs 05/12/2018