

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 20.12.2018

CORAM
THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.8758 of 2016
and CRL.M.P.No.4585 of 2016

1. D.Mahendran
2. Saraswathi
3. V.Veni @ Krishnaveni
4. Anandan @ Vivekanandan

.. Petitioners

Vs

- 1.K.S.Lavanya
- 2.Minor Jitesh Kumar
Rep. by Guardian and mother
K.S.Lavanya

.. Respondents

Criminal Original Petition filed under Section 482 Cr.P.C.,
praying to call for the records in M.C.No.14 of 2015 on the file
of the Judicial Magistrate Court No.I, Gobichettipalayam and
quash the same.

For Petitioners : Mr.S.Ramesh Kumar

For Respondents : Mr.N.Manokaran

O R D E R

This criminal original petition has been filed to quash the
proceedings in M.C.No.14 of 2015 on the file of the Judicial
Magistrate Court No.I, Gobichettiypalayam.

2.For the sake of convenience, the parties will be referred
to by their name.

3.Lavanya got married to Mahendran on 19.02.2012 and they
have a child by name, Jithesh Kumar, through the wedlock. It is
the case of Lavanya that her husband and in-laws had perpetrated
acts of domestic violence against her and therefore, she has
initiated proceedings in M.C.No.14 of 2015 before the Judicial
Magistrate No.I, Gobichettipalalyam under Section 12 of the
Protection of Women from Domestic Violence Act, 2005, against
Mahendran and his family members, challenging which, Mahendran
and others have filed the present petition.

4.Heard Mr.S.Ramesh Kumar, learned counsel for Mahendran and
others and Mr.N.Manokaran, learned counsel for Lavanya.

5.It is brought to the notice of this Court that the trial in M.C.No.14 of 2015 has commenced and the evidence of Lavanya has been recorded. That apart, on reading of the complaint in M.C.No.14 of 2015, it is evident that there are prima facie materials against Mahendran and his family members and therefore, the prosecution cannot be quashed, at the threshold.

6.However, learned counsel for Mahendran and others prayed that the presence of the petitioners No.2 to 4/respondents No.2 to 4 before the trial court, may be dispensed with.

7.Accepting the aforesaid submission, the petitioners No.2 to 4/ respondents No.2 to 4 are directed to appear before the trial Court, within two weeks from the date of receipt of a copy of this order and execute a bond for Rs.10,000/- each under Section 88 Cr.P.C. with two common sureties, undertaking to engage an advocate to defend them, with a further undertaking that the witnesses will be cross-examined on the day, they are examined-in-chief, without adopting dilatory tactics. They should also give an undertaking that they will not dispute their identity. On such bond being executed, the presence of the petitioners No.2 to 4/respondents No.2 to 4 before the trial Court shall stand dispensed with, till the date of passing of the order in M.C.No.14 of 2015. If Mahendran and others adopt any dilatory tactics, it is open to the trial Court to insist upon their presence.

With the above direction, this petition is dismissed. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssm/gya

To

1.The Judicial Magistrate No.I,
Gobichettipalayam.

2.The Chief Judicial Magistrate,Erode.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.89132

CRL.OP.No.8758 of 2016

GP(CO)
rrs 23/01/2019