

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.O.P. No.9103 of 2016
and
CrI.M.P.Nos.4709/2016 & 7084 /2017

1.Chitra Mahalakshmi
2.Manoj Chakravarthy
3.Siva Sankari ... Petitioners/Respondents 1 to 3

. Vs .

1.Sujatha
2.Minor J.Varna
rep.by natural guardian and mother,
Sujatha ... Respondents/Petitioners

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in DVA No.13 of 2016 on the file of learned Judicial Magistrate No.VI, Coimbatore and quash the same.

For Petitioners : Mr.C.K.M.Appaji

For Respondents : Mr.I.Abrar MD Abdullah

सत्यमेव जयते

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in DVA No.13 of 2016, pending on the file of the learned Judicial Magistrate No.VI, Coimbatore.

2.It is seen from the allegations made in the Complaint that the 1st respondent was married to one Jagan Mohan, who is the son of the 1st petitioner. The 1st petitioner was living along with her son and daughter-in-law. A child was also born on 20.07.2015. All of a sudden the above said Jagan Mohan committed suicide on 24.10.2015. Thereafter, the 1st respondent and her children were thrown out of the matrimonial house.

According to the 1st respondent, all the three petitioners have committed domestic violence, and therefore the petition was filed before the Court below seeking for various reliefs against the petitioners.

3.The learned counsel for the petitioners would submit that admittedly the 2nd and 3rd petitioners are not even living in India, and therefore there is no question of these petitioners committing any domestic violence. The learned counsel would further submit that there is a serious dispute with regard to the very marriage itself. The learned counsel for the petitioners further submitted that the intention of the petitioners in filing a domestic violence petition is to get to share in the business of the family. The learned counsel for the petitioners also brought to the notice of this Court the suit filed by the 1st respondent in O.S.No.2145 of 2010.

4.Per contra, the learned counsel for the respondents would submit that the 1st respondent was thrown away from the matrimonial home along with a small child and she has been running from pillar to post for the last more than 2 years without any remedy. The learned counsel for the respondents would further submit that earlier an attempt was made to send the parties before the Mediation Centre and at that point of time, the petitioners virtually refused to make any payment to the respondents. Therefore, the mediation failed and the matter was placed before this Court. The learned counsel also brought to the notice of this Court the reliefs that have been sought for in the domestic violence petition and has submitted that this Court should not interfere with the proceedings at this stage.

5.This Court has carefully considered the submissions made on either side. The issues that has been raised by the learned counsel for the petitioners are factual in nature. These facts will have to be raised before the Court below only in the course of proceedings and it is subject to appreciation of evidence. The proceedings have been pending from the year 2016 onwards without any progress. This Court is not inclined to interfere with the proceedings at this stage. It is left open to the petitioners to raise all the grounds before the Court below and the Court below shall consider the same on its own merits, and in accordance with law.

6.The learned counsel for the petitioners would submit that the 1st petitioner is a very aged women and the 2nd and 3rd petitioners are living at Canada, therefore their presence may be dispensed with before the Court below. The presence of the petitioners is dispensed with before the Court below and they shall be represented by a counsel. The learned counsel

representing the petitioners shall cross examine the witnesses on the same day they are examined in chief and the petitioners shall be present before the Court below, as and when the Court below directs their personal appearance.

7.This Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in DVA No.13 of 2016, on the file of learned Judicial Magistrate No.VI, Coimbatore, within a period of three months from the date of receipt of a copy of this order, and shall file a compliance report before this Court after completion of the proceedings.

Accordingly, the Criminal Original Petition is disposed of with the above direction. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

KP

To

Judicial Magistrate No.VI,
Coimbatore.

+1cc to Mr.I.Abrar Md.Abdullah, Advocate, S.R.No. 82766

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MR(CO)
GN(31/12/2018)

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