

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.8866 of 2017 & Crl.M.P. No.6383 of 2017

1 A.S.M. Kader Hussain

2 Mohammed Mohideen

3 Katheeja Begam

Petitioners

vs.

KMA Zabira

Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the entire proceedings in D.V.C. No.211 of 2016 on the file of the Mahila Court, Allikulam at Chennai as against the petitioners and quash the same.

For petitioners

Mr. H. Prosper
for Ms. M. Christella

For respondent

Mrs. R. Thenmozhi Shivaperumal

ORDER

This Criminal Original Petition has been preferred seeking to call for the entire proceedings in D.V.C. No.211 of 2016 on the file of the Mahila Court, Allikulam at Chennai as against the petitioners and quash the same.

2 The first petitioner got married to the respondent on 08.12.1991 and they have two children through the wedlock. Their marriage ran into rough weather resulting in the spouses getting estranged. The respondent is living with her two children in her parental home since separation. While so, the respondent has initiated proceedings in D.V. No.211 of 2016 before the Mahila Court (Magisterial Level), Egmore, Chennai, claiming various reliefs under the Domestic Violence Act against her husband and parents-in-law, for quashing which, this Criminal Original Petition has been filed.

3 Heard Mr. H. Prosper, learned counsel representing Ms. M. Christella, learned counsel on record for the petitioners and Mrs. R. Thenmozhi Shivaperumal, learned counsel for the respondent.

4 The learned counsel for the petitioners submitted

that the first petitioner and the respondent have been living

separately for nine years and that the respondent filed a suit in O.S. No.248 of 2015 for divorce and obtained a decree of divorce from the Family Court, Chennai on 01.03.2017.

5 The learned counsel for the respondent submitted that an application has been filed by the first petitioner to set aside the decree in O.S. No.248 of 2015.

6 Be that as it may, the provisions of the Domestic Violence Act will come into play even in respect of a live in relationship and it is not that marriage is a pre-condition for claiming reliefs under the said Act. However, it is seen that there are no serious allegations as against petitioners 2 and 3 in the D.V. application filed by the respondent. Mrs. Thenmozhi Shivaperumal also fairly conceded this position.

7 In view of the above, the proceedings in D.V.C. No.211 of 2016 is quashed as against the petitioners 2 and 3. The first petitioner is directed to appear before the Trial Court within a period of two weeks from the date of receipt of a copy of this order and execute a bond for Rs.5,000/- under Section 88 Cr.P.C. without sureties. The Trial Court is directed to proceed with the enquiry in D.V.C. No.211 of 2016 and complete the same as against the first petitioner and complete the same within a period of six months from the date of receipt of a copy of this order.

In fine, this Criminal Original Petition is allowed qua petitioners 2 and 3 and dismissed qua the first petitioner. Connected Crl.M.P. is closed.

cad

Sd/--

Assistant Registrar(CS v)

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Sub Assistant Registrar

To

1 The Mahila Judge
Allikulam
Chennai

2 The Public Prosecutor
Madras High Court
Chennai 600 104

+1 CC TO MR.M.CHRISTELLA Advocate SR.NO. 54837

+1 CC TO MRS.THENMOZHI Advocate SR.NO. 55002

Cr1.O.P. No.8866 of 2017

GP(CO)

ASK(30/08/2018)