

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.No.10608 of 2018

&

CrI.M.P.Nos.5433 & 5434 of 2018

1.R.Ramesh
2.P.Rajendran
3.Shanthi Petitioners
Vs

1. Umamaheswari
2. Sarvesh (Minor) ... Respondents

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records and to quash the proceedings in D.V.C.No.29 of 2017 on the file of the learned Judicial Magistrate Court II, Puducherry.

For Petitioners :Ms.P.Kavitha

ORDER

The relief sought for in this petition is to quash the proceedings in D.V.C.No.29 of 2017 on the file of the learned Judicial Magistrate Court II, Puducherry.

2.Umahaheswari got married to Ramesh on 25.05.2012 and they have one child by name, Sarvesh through their wedlock. On account of matrimonial discord, they got estranged and therefore, Umamaheswari has initiated proceedings under the Domestic Violence Act in D.V.C.No.29 of 2017 before the learned Judicial Magistrate No II, Puducherry against her husband and her in-laws (petitioners herein) claiming various reliefs including the relief of maintenance. Challenging the said proceedings, this quash application has been filed.

3.Heard learned counsel appearing for the petitioners.

4.The learned counsel appearing for the petitioners fairly submitted that Ramesh is abroad and that he has paid around Rs.12,000/- per month to Umamaheswari till the filing of Domestic Violence proceedings. However, Umamaheswari has claimed a huge amount of Rs.30,00,000/- as maintenance. This

Court perused the petition in D.V.C.No.29 of 2017, wherein Umamaheswari has made several allegations, which can be decided only in trial.

5.The learned counsel appearing for the petitioners submitted that the petitioners are in Thiruvallur District and the proceedings have been initiated in Puducherry and therefore, the presence of the petitioners before the trial Court may be dispensed with.

6.The learned counsel appearing for the petitioners further submitted that she has entered appearance for all the three petitioners before the trial Court and she will proceed with the enquiry, without taking any unnecessary adjournments.

7.Accepting the undertaking given by the learned counsel appearing for the petitioners, this Criminal Original Petition is closed, with a further direction that the presence of the petitioners before the trial Court is dispensed with for a period of six months from the date of receipt of a copy of this order, on condition that the petitioners shall first appear and execute a bond under Section 88 of Cr.P.C. for Rs.5,000/- (Rupees five thousand only) without sureties and file an undertaking affidavit that they will not dispute their identity and that the Counsel appointed by them will cross examine the witnesses on the day, the witness is examined in Chief and not adopt any dilatory tactics. The petitioners shall file their counter in the main D.V.C.No.29 of 2017 immediately. If the petitioner adopts dilatory tactics, the trial Court is entitled to insist the presence of the petitioner.

8.Without prejudice to their case, the petitioners shall deposit Rs.15,000/- (Rupees fifteen thousand only) per month to the credit of D.V.C.No.29 of 2017 on the file of the learned Judicial Magistrate No.II, Puducherry on or before 5th of every English calendar month. On such deposit, Umamaheswari is entitled to withdraw the same.

With the above directions, this Criminal Original Petition is closed. Consequently, the connected Miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

mps

To
The Judicial Magistrate II,
Puducherry.

+lcc to Ms.P.Kavitha, Advocate sr.no.25085

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Cr1.M.P.Nos.5433 & 5434 of 2018

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