

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Cr1.O.P.No.9768 of 2018 and
Cr1.M.P.Nos.5021, 5022 & 8873 of 2018

1. R.Sanjeevi
2. Indumathi
3. Rajendra Babu

... Petitioners

Vs

J.Vinodha

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in D.V.C.No.470 of 2017 on the file of the Additional Mahila Court, Allikulam, Egmore, Chennai - 600 008, and quash the same.

For Petitioners : Mr.S.Senthilnathan

For Respondent : Mr.T.Muruganantham

O R D E R

This Criminal Original Petition has been filed to call for the records relating to the proceedings in D.V.C.No.470 of 2017 on the file of the Additional Mahila Court, Allikulam, Egmore, Chennai - 600 008, and quash the same.

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

3. Sanjeevi got married to Vinodha on 06.02.2012 and thereafter their marriage ran into rough weather, resulting in the spouses getting estranged. Sanjeevi filed HMOP No.54 of 2013 and on the application filed by Vinodha, the case was transferred to the VI Additional Family Court, Chennai, and renumbered as O.P. No.439 of 2016. While so, Vinodha has filed O.P. No.3070 of 2017 before the VI Additional Family Court, Chennai for restitution of conjugal rights. Simultaneously, Vinodha has also filed D.V.C. No.470 of 2017 before the Additional Mahila Court (Magisterial level), Egmore at Allikulam, Chennai, claiming various reliefs under the Protection of Women from Domestic Violence Act, 2005, against

Sanjeevi and his parents Indumathi and Rajendra Babu, for quashing which, this petition has been filed.

4. Heard Mr.S.Senthilnathan, learned counsel for Sanjeevi and party and Mr.T.Muruganantham, learned counsel for Vinodha.

5. On a reading of the petition, that has been filed in D.V.C. No.470 of 2017 by Vinodha, it is seen that, she has alleged that her husband and her parents-in-law demanded 30 sovereigns of jewelry and after it was given to them, they chased her out of the matrimonial home in the year 2015. She has further stated that, unable to withstand the torture, she attempted to commit suicide by consuming poisonous seeds.

6. The learned counsel for Sanjeevi brought to the notice of this Court that Vinodha, in the counter filed by her, in the divorce proceedings in HMOP No.54 of 2013 (presently O.P. No.439 of 2016), has categorically stated in Para 7 that her mother came to the matrimonial home and Sanjeevi did not speak to her. When she questioned Sanjeevi about it, he told Vinodha that she can go and live with her mother. Aggrieved by these words of Sanjeevi, she consumed poisonous seeds and attempted to commit suicide. She has very clearly stated in Para 7 that, at that time, her parents-in-law were not in the matrimonial home and they had gone to their village. This is the earliest version of Vinodha, dated 29.10.2014. However, in the D.V. Proceedings, she has taken a contradictory stand.

7. Mr.T.Muruganantham, learned counsel for Vinodha submitted that these are disputed questions of fact and should not be dealt with, by this Court, in a quash application.

8. This Court gave its anxious consideration to the rival submissions.

9. It is true that, in a quash application, disputed questions of fact cannot be gone into, however, this Court looked into certain documents of impeachable credibility. In this case, the divorce proceedings was first initiated in the year 2013, in which, Vinodha filed her counter on 29.10.2014 and in that counter, in Para 7, she has clearly stated that on account of the quarrel between her husband and herself, she attempted to commit suicide by consuming poisonous seeds and at that time, her parents-in-law were not in the matrimonial home. The D.V. Proceedings were initiated in the year 2017, in which, she has given a contradictory version. That apart, she has more grievances against her husband rather than against her parents-in-law.

10. In such view of the matter, this Court is of the opinion that, the proceedings as against her parents-in-law is an abuse

of process of law. However, the proceedings as against Sanjeevi cannot be quashed, as Vinodha is claiming certain monetary reliefs from him.

11. Therefore, Proceedings as against Indumathi and Rajendra Babu in D.V.C.No.470 of 2017 on the file of the Additional Mahila Court, Egmore at Allikulam, Chennai, stands quashed. The trial Court is directed to complete the enquiry in D.V.C.No.470 of 2017 within six months from the date of receipt of a copy of this order, provided, there is no legal impediment.

In the result, this petition is partly allowed and dismissed qua Sanjeevi. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mkn/jer

To

1. The Inspector of Police,
Kunnam Police Station,
Perambalur District.
2. The Additional Mahila Judge,
Additional Mahila Court,
Egmore @ Allikulam, Chennai.
3. The Public Prosecutor,
High Court, Madras.

+2cc to Mr.S.Senthilnathan, Advocate sr.no.58697
+1cc to Mr.T.Muruganantham, Advocate sr.no.58325

Cr1.O.P.No.9768 of 2018

nr 31/08/2018