

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.10689 of 2018

and

Crl.M.P.Nos.5471 & 5496 of 2018

1.S.Pary
2.S.Pynthodi

... Petitioner

Vs

1.K.Thaiyal Nayagi

2. The Protection Officer,
O/o District Social Welfare Officer,
Nagapattinam.

... Respondents

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records and quash D.V.C No.13 of 2017 on the file of Judicial Magistrate, Seerkali.

For Petitioner :Mr.S.V.Ramamurthy

ORDER

This Criminal Original petition is filled seeking to quash the proceedings made in D.V.C No.13 of 2017 on the file of Judicial Magistrate, Seerkali.

2. Pary got married to one Thaiyal Nayagi and their marriage ran into rough weather resulting in the spouses getting estranged. Thaiyal Nayagi initiated proceedings in D.V.C. No.13 of 2017 before the Judicial Magistrate, Seerkali. Prior to initiation of proceedings, her complaint was forwarded to the Protection Officer under the Domestic Violence Act, who filled up the necessary forms and referred the matter to the Court for adjudication. Challenging the proceedings Pary and his sister Pynthodi have filed the present quash application.

3. Heard Mr.V.Ramamurthy, learned counsel appearing for the petitioners.

4. The learned counsel for the petitioners submitted that the complaint of Thaiyal Nayagi does not disclose the necessary ingredients for initiation of proceedings under the Domestic Violence Act. It is seen that the proceedings under the Domestic Violence Act has been initiated after the matter has been referred by the Protection Officer to the Court. The proceedings is not a criminal prosecution, which requires the charge sheet to reveal the offences. The proceedings under Domestic Violence Act is essentially to ensure that a hapless woman does not go succor less. This Court finds sufficient materials in the Domestic Violence petition for a full fledged trial.

5. Therefore, this petition is dismissed, with liberty to the petitioners to raise all the grounds before the trial Court. Further, the presence of Pynthodi is dispensed with, on the following conditions:

a) Pynthodi shall appear before the Judicial Magistrate, Seerkali and execute a bond under Section 88 of Cr.P.C., for Rs.5,000/-, without surety.

b) On such execution, she shall give an undertaking before the trial Court that she will not dispute her identity and that the counsel named by her in the affidavit will cross-examine the prosecution witnesses on the day they are examined-in-chief, as held by the Supreme Court in Vinod Kumar vs. State of Punjab, [2015 (1) MLJ (Crl.) 288], without adopting any dilatory tactics.

c) As and when the presence of Pynthodi is required, the trial court can inform the Advocate on record, who shall ensure the presence of Pynthodi, before the trial court.

d) If the petitioners adopt any dilatory tactics, it is open to the Trial Court to insist for the presence of Pynthodi.

6. With the above directions, this Criminal Original petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

avr/ vum

To

1. The Judicial Magistrate,
Seerkali

2.The Public Prosecutor,
Madras High Court,
Chennai.

3.The Protection Officer,
Office of the District social Welfare Officer,
Nagapattinam.

+1cc to Mr.S.V.Ramamoorthy, Advocate SR.No.25067

Crl.O.P.No.10689 of 2018
and
Crl.M.P.Nos.5471 & 5496 of 2018

VBA (CO)
GN(16/04/2018)



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