

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.09.2018

CORAM
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.No.27084 of 2014
and
Crl.M.P.No.1 of 2014

1. M.Subramani
2. S. Rani
3. S.Ramachandran
4. R.Radhika
5. G.Nagammal

... Petitioners

Vs.

C.Vigneshwari @ Malliga

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the entire records relating to the complaint in D.V.A.No.2 of 2014, on the file of the Hon'ble Judicial Magistrate No.V, Coimbatore in respect of the petitioners alone and quash the same.

For Petitioners : Mr.L.Mouli

For Respondent : Mr.P.Dinesh Kumar

O R D E R

This petition has been filed by the respondents 2 to 6 in D.V.A.No.2 of 2014, on the file of the Judicial Magistrate No.V, Coimbatore, to quash the proceedings in the above D.V.A. against them.

2. Heard, Mr.L.Mouli, learned counsel appearing for the petitioners and Mr.P.Dinesh Kumar, learned counsel appearing for the respondent.

3. The learned counsel for the petitioner has submitted that the respondent herein has filed an application under Section 12 of the Protection of Women from Domestic Violation Act, 2005 (hereinafter referred to as 'The Act'), seeking certain reliefs against the petitioners herein and one Mr.Manivannan. He further submitted that the said Mr.Manivannan is the husband of the respondent herein and he is the son of the first and second petitioners herein. He further submitted that the other petitioners are in-laws of the respondent and they have not been residing with the respondent herein in a shared house hold. He further submitted that the family card would show that the third

to fifth petitioners are residing at some other place. He further submitted that since the third to fifth petitioners have not been residing with the respondent herein in a shared household, the aforesaid Act will not attract against the third to fifth petitioners. He further submitted that the first and second petitioners also not residing with their son and hence, the respondent cannot file any petition seeking relief under the said Act against them also and hence, he prayed to quash all the proceedings against the petitioners herein.

4. The learned counsel for the respondent has submitted that the Xerox copy of the family card filed by the petitioners themselves, would show that the first and second petitioners were living with their son namely, Manivanan and hence, the respondent is entitled to seek relief against the first and second petitioners. He further submitted that insofar as the third to fifth petitioners are concerned, as per the averments made in the application, they are also residing in the same address along with husband of the respondent and therefore, the petition against them is also maintainable.

5. A perusal of the petition which was filed under Section 12 of the Protection of Women from Domestic Violation Act, 2005 by the respondent herein, shows that the fifth petitioner namely Nagammal is residing at Maduraiveeran Koil Line, CMC Colony, Ukkadam (South), Coimbatore. In respect of other petitioners, though the respondent has stated in her application that all of them are residing in door No. 6, New C.M.C. Quarters, S.H. Road, Ukkadam (South), Coimbatore, to substantiate the same, she has not produced any material. A xerox copy of the family card produced by the petitioners would show that the fifth petitioner is residing at door No. 93 (old No. 77) CMC Colony, Coimbatore. Likewise the xerox copy of the family card which was produced by the third and fourth petitioners would show that they are residing at door No.98 (old No.76) C.M.C. Colony. To controvert the same, the respondent has not produced any material. Under the said circumstances, it has to be presumed that the third to fifth petitioners are not residing with the husband of the respondent.

6. Though the first and second petitioners also have filed a xerox copy of the family card which would show that their son is not residing with them, they have not produced any materials to show that their son Manivanan is residing at some other place. So, at this stage, this Court cannot rely upon the endorsement made by the Civil Supply Officer, Coimbatore with regard to removing the name of the son of the first and second petitioners.

7. The condition precedent for entertaining the application under the Protection of Women from Domestic Violence Act is that

the respondent should have resided with the aggrieved person in a shared house hold. In this case, the family card produced by the petitioners would show that the third to fifth petitioners are not residing with the first and second petitioners and their son and the respondent herein and therefore, the proceedings against the third to fifth petitioners have to be quashed. Insofar as the first and second petitioners are concerned, the petition is liable to be dismissed.

8. In the result, the petition is partly allowed and the proceedings against the third to fifth petitioners in DVA No. 2 of 2014 on the file of the Judicial Magistrate No.V, Coimbatore, is quashed. Insofar as the first and second petitioners are concerned, this petition is dismissed. Considering the age of the first and second petitioners, their personal appearance before the Trial Court is dispensed with, but they should appear before the Trial Court as and when required by the Trial Court. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nmm/mm

To

1.The Judicial Magistrate No.V,
Coimbatore.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.L.Mouli, Advocate, S.R.No.62339

RSK (CO)

rrs 02/11/2018

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and
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