

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 12.07.2018	Delivered on 19.07.2018
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CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.5561 of 2011

1. Abaranji
2. Velpari

... Petitioners

Vs.

K.Gunavathy

...Respondent

PRAYER: The Criminal Original Petition has been filed under Section 482 of Cr.P.C, to call for the records relating to the case in C.M.P.No.1793 of 2010 on the file of the Judicial Magistrate No.1, Cuddalore and quash the same.

For Petitioners : Mr.N.Bhaskaran

For Respondent : Mr.D.Baskar

O R D E R

The petitioners are respondents in C.M.P.No.1793 of 2010 pending on the file of the Judicial Magistrate No.1, Cuddalore on the complaint filed by the respondent/petitioner under Section 12 of the Protection of Women from Domestic Violence Act, 2005. The first petitioner is the mother-in-law and the second petitioner is the brother-in-law of the respondent. The marriage between the respondent and the first petitioner's son S.Elangovan was held on 11.02.1993, out of their wedlock one male child was born on 20.11.1993 and he is studying X standard.

2. The respondent's husband is running a printing press. The respondent is a practicing Advocate and also a Notary Public having good practice and income. The petitioners family have not taken care of the petitioner and they were only eying the income of the respondent. Further, the petitioner's family had continuously demanded money from the parents of the respondent. She was not taken care by her husband during the pregnancy

period and after. Further, the respondents' family were ethists and the respondent is a devotional person and she was not allowed to pray as per her wish and hence there was a great ideological difference between them, due to which, she had lost her peace. Further, the husband of the respondent Mr.Elangovan who had been arrayed as respondent No.1 in the Domestic Violence Act. The said Elangovan is having illegal relationship with one Gana Latha his neighbour during the absence of the respondent at the time of her pregnancy. This is one of the reason for driving out the respondent from the matrimonial home to parental home. The respondent is not certain about the activities between the Elangovan and Gnana Latha. Since Gnana Latha was a neighbour and unmarried such accusation has been made.

3. The contentions of the petitioners herein is that it is an admitted case that the respondent had given birth to one male child on 20.11.1993 and the Domestic violation petition came to be filed in the year 2009, sixteen years thereafter, the respondent has now made averments in the complaint. The marriage took place in the year 1993 her restriction for her prayer and her suffering during pregnancy period and further allegation of Elangovan and Gnana Latha having relationship is an invented story for the purpose of the petition. The entire reading of the petition would go to show that the happenings of 16 years prior have been highlighted, the respondent contention that she had been made to suffer and she is being treated cruelly at the hands of the petitioner is an invented story without any basis further there is no specific allegations as against by the petitioners.

4. On hearing the rival submissions and on the perusal of the records, it is found that the respondent is a learned person and Advocate had exaggerated the family issue and had impleaded these petitioners as respondents in proceedings without specific allegation against them. Further, it is seen that the respondent had not approached the protection officer though it is not mandatory. The protection officer would be the right person to summon the respondents and find out the truth, nature and seriousness and gravity of the domestic violence sustained by the aggrieved person. In this case, no such enquiry of the protection officer, it is found that except for the exaggerated allegations, there are no tangible materials to proceed against the petitioners herein. In such circumstances, this court has no hesitation to quash further proceedings as against the petitioners alone.

5. In the result, the criminal original petition is allowed the proceedings as against the petitioners is quashed and the case pending against the petitioners in C.M.P.No.1793 of 2010 on the file of the learned Judicial Magistrate No.I, Cuddalore stands quashed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

vv

To

1. The Judicial Magistrate No.1,
Cuddalore.

2. The Public Prosecutor,
High Court, Chennai.

+ 2 ccs to Mr. R. Gururaj, Advocate SR.45658

+ 1 cc to Mr.N. Raskaran, Advocate SR.48897

Crl.O.P.No.5561 of 2011

(CS-IX)
EU(02/08/2018)

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