

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.No.6558 of 2015
and Crl.M.P.No.1 and 3 of 2015

1. K.Suresh
2. M.Kunjukrishnan
3. K.Mary
... Petitioners

Vs.

V.Sowmya
... Respondent

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records in C.C.No.4906 of 2013 on the file of the Metropolitan Magistrate-II, Egmore, Chennai-8 and quash the same

For Petitioners : Mr. A.M.Venkatakrisnan

For Respondents : Ms.R.Varalakshmi,
Ms. S.Rathi
Ms.M.Belsiya

ORDER

The petitioners are the respondents in C.C.No.4906 of 2013 on the file of the Metropolitan Magistrate-II, Egmore, Chennai-8.

2. The respondent/complainant filed a complaint dated 25.07.2013 before the Protection Officer, Chennai against the present petitioners alleging that they demanded dowry and also abused her in filthy language and beat her. On the basis of the complaint given by the respondent/ complainant, the Protection Officer filed a petition before the II Metropolitan Magistrate, Egmore, Chennai in C.C.No.4906 of 2013 praying for relief under Sections 18, 19, 20, 22 of the Protection Women from Domestic Violence Act, 2005.

3.Mr.A.M.Venkatakrisnan, learned counsel appearing for the petitioners would contend that the 2nd and 3rd petitioners are parents of the first petitioner and parents-in-law of the respondent/complainant and since they were not residing with the respondent or the first petitioner, they cannot be shown as respondents in C.C.No.4906 of 2013 on the file of the Metropolitan Magistrate-II, Egmore, Chennai.

4. Per contra, Ms.R.Varalakshmi, learned counsel appearing for the respondent/complainant would contend that even though the respondents 2 & 3 are living separately, there are certain allegations made against them and therefore, the II Metropolitan Magistrate, Egmore, Chennai was right in taking cognizance of the offence against all the petitioners herein for the offences punishable under Sections 18, 19, 2, 22 of the Protection Women from Domestic Violence Act, 2005.

5. At this juncture, it is relevant to extract Section 2(a) of the Protection of Women from Domestic Violence Act, 2005, which read as follows.

2. Definitions - In this Act, unless the context otherwise requires,

(a) "aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

6. In the instant case, it is the admitted case of the respondent/complainant that the petitioners 2 & 3 were residing separately and were not residing with her and her husband. In *Hima Chugh V. Pritam Ashok Sadaphule and Others* reported in 2013 Cr1. L.J. 2182, the Delhi High Court had held thus.

"... The domestic violence can take place only when one is living in shared household with the respondents. The acts of abuses, emotional or economic, physical or sexual, verbal or non-verbal if committed when one is living in the same shared household constitute domestic violence. However, such acts of violence can be committed even otherwise also when one is living separate. When such acts of violence take place when one is living separate, these may be punishable under different provisions of IPC or other penal laws, but, they cannot be covered under Domestic Violence Act. One has to make distinction between violence committed on a person living separate in a separate household and the violence committed on a person living in the shared household. Only violence committed by a person while living in the shared household can constitute domestic violence. A person may be threatening another person 100 miles away on telephone or by messages etc. This may amount to an offence under IPC, but, this cannot amount to domestic violence. Similarly, emotional blackmail, economic abuse and physical abuse can take place even when persons are living miles away. Such abuses are not covered under Domestic Violence Act but they are liable to be punished under penal laws. Domestic Violence is a violence which is committed when parties are in domestic relationship, sharing same household and sharing all the household goods with an opportunity to commit violence:

The ultimate object of the Protection of Women from Domestic Violence Act, 2005 is to give protection to the victims and punish the guilty. In majority of these complaints, it is difficult to find out the truth. It is also quite common that the complainants are not only implicate their husband but also all the relatives. Therefore, the courts have to be extremely cautious and careful in dealing with these kinds of complaints and the allegations of harassment of husband's close relatives, who had been living in different places and never visited or rarely visited the place, where the complainant resided would have an entirely different complexion and therefore, the allegations of the complainant are required to be scrutinized with care and circumspection.

7. As far as the present case is concerned, as already observed, the respondent/complainant admitted that the 2nd and 3rd petitioners are residing in a separate house and therefore, the complaint in C.C.No.4906 of 2013 on the file of the II Metropolitan Magistrate, Egmore, Chennai as against the 2nd and 3rd petitioners is liable to be quashed. As far as the first petitioner is concerned, there are certain allegations made against him and at this stage, this court cannot conduct any roving enquiry to find out whether the allegations levelled against the first petitioner are true or not. Therefore, I do not find any reason to quash the proceedings in C.C.No.4906 of 2013 on the file of the Metropolitan Magistrate-II, Egmore, Chennai, as far as the first petitioner is concerned.

8. In the result, the proceedings in C.C.No.4906 of 2013 on the file of the Metropolitan Magistrate-II, Egmore, Chennai is quashed, with regard to the 2nd and 3rd petitioners. However, the II Metropolitan Magistrate, Egmore, Chennai is directed to dispose of the case in C.C.No.4906 of 2013, as against the first petitioner, within a period of 6 months from the date of receipt of a copy of this order. The connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(cs VII)

// True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate-II,
Egmore, Chennai.

2. The Public Prosecutor, Madras High Court.

+1cc to Ms.R.Varalakshmi, Advocate Sr.No.49624

+1cc to Mr.R.Nithiyanandan Advocate Sr.Np.49653

NA (CO)

<https://hcservices.ecourts.gov.in/hcservices/>

Slm:6.8.2018

Cr1.O.P.No.6558 of 2015