

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2018

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.14712 of 2018 & Crl.M.P. Nos.7449 & 7450 of 2018

1	P. Kanakasabapathi	
2	S.Bhuwaneshwari	
3	R.Muthurathinam	
4	T.Dhanalakshmi	
5	S.Sivasubramaniam	
6	Karunambikai	
7	S.Jayakumar	
8	R.Jaishanthi	
9	R.Vishnu Deepthi	
10	R.Sengaliappan	Petitioners
	K.Sasikala	Respondent

Vs.

Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records relating to D.V.A.No.6 of 2018 on the file of the Judicial Magistrate No.2, Pollachi and quash the same.

For petitioners

Mr. S. Arjun

For respondent

Mr. N. Ponraj

ORDER

This Criminal Original Petition has been preferred seeking to call for the records relating to D.V.A.No.6 of 2018 on the file of the Judicial Magistrate No.II, Pollachi and quash the same.

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

3 Kanakasabapathi got married to Sasikala on 02.11.2007 and they have one daughter through the wedlock. They both were residing in No.2/43, Vinayagar Kovil Street, Pilsinnampalayam, Samathur Post, Pollachi, Coimbatore. On account of certain differences, they got estranged. Sasikala has initiated proceedings in D.V.A.No.6 of 2018 before the Judicial Magistrate No.II, Pollachi, against 10 persons including Kanakasabapathi and all his sisters and uncles. Challenging the said proceedings under the Protection of Women from Domestic Violence Act, 2005, all the respondents therein are before this Court.

4 Heard Mr. Arjun, learned counsel for Kanakasabapathi and other accused and Mr. Ponraj, learned counsel for Sasikala.

5 On a reading of the petition in D.V.A.No.6 of 2018, it seen that respondents 2 to 10 before the trial Court, who are petitioners 2 to 10 before this Court, are living in different addresses and they are not living in the joint household. However, it is seen that there are some allegations of cruelty made against them in the D.V. petition. Sasikala is seeking relief mainly against her husband Kanakasabapathi.

6 Mr.Ponraj, learned counsel for Sasikala submitted that the allegations made in the D.V. petition are sufficient for the trial to proceed against all the accused.

7 In the opinion of this Court, the allegations levelled against petitioners 2 to 10 are indeed insufficient to mulct them with liability under the Protection of Women from Domestic Violence Act.

8 The learned counsel for Sasikala submitted that Sasikala is residing in No.2/43 Vinayagar Kovil Street, which belongs to the family of Kanakasabapathi and that petitioners 2 to 10 are constantly asking her to vacate from the said premises.

9 However, the learned counsel for Kanakasabapathi and other petitioners submitted that after the death of Naachammal, mother of Kanakasabapathi, there was a partition amongst the family, under which, the property in No. 2/43 Vinayagar Kovil Street has been allotted to the share of Muthurathinam (the third petitioner) and therefore, Sasikala cannot, as a matter of right, seek residence in that address.

10 Be that as it may, it is the duty of Kanakasabapathi to provide an alternative accommodation for Sasikala, which, she will have to accept and she cannot insist that she will reside only in No.2/43, Vinayagar Kovil Street house, especially when the same has been allotted to Muthurathinam in partition.

11 In view of the aforesaid discussion, the proceedings in D.V.A.No.6 of 2018 as against petitioners 2 to 10 (respondents 2 to 10 before the Trial Court) is quashed. However, it is made clear

that Kanakasabapathi shall continue to comply with the interim order dated 05.06.2018 passed by this Court by depositing Rs.5,000/- as ad interim maintenance. It is open to the Trial Court to modify or vary the said order.

12 The learned counsel for Kanakasabapathi and other accused submitted that Kanakasabapathi is ready and willing to continue to deposit Rs.5,000/- per month as directed by this Court vide order dated 05.06.2018. and that the petitioners 2 to 10 will not unnecessarily harass Sasikala. The said submissions of the learned counsel are placed on record.

In fine, this Criminal Original Petition is partly allowed as indicated in paragraph no.11 above. Connected Crl.M.Ps. are closed.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

cad/dua

To

1 The Judicial Magistrate No.II
Pollachi

2 The Public Prosecutor
High Court of Madras

+1 cc to Mr. S. Arjun Advocate SR.NO. 55571

Crl.O.P.No.14712 of 2018

ASK (30/08/2018)

सत्यमेव जयते

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