

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 10.07.2018

Pronounced on : 19.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.15521 of 2010

and

M.P.No.1 of 2010

1. J.Rani,
W/o.Jaganathan.

2. J.Vijayaraj,
S/o.Jaganathan.

3. T.Govindhasamy,
S/o.Thangam.

4. G.Ramani,
W/o.Govindhasamy.

.... Petitioners/Respondent '
Nos.3 to 6

Vs.

Thenmozhi,
W/o.Senthi.

.... Respondent/complainant

PRAYER:

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the M.C.No.4 of 2010 pending before the Judicial Magistrate Court No.2, Tindivanam and to quash the same.

For Petitioners: Mr.A.Abdul Rahman for
M/s. Nathan and Associates.

For Respondent : No appearance
(Served - Name printed)

O R D E R

This Criminal Original Petition is filed to call for the records pertaining to the M.C.No.4 of 2010 pending before the Judicial Magistrate Court No.2, Tindivanam and to quash the same.

2.The petitioners herein who are respondent Nos.3 to 6 in M.C.No.4 of 2010 pending on the file of the Judicial Magistrate Court, Tindivanam, Villupuram District on the complaint filed by the respondent herein under Section 12 of Protection of Women from Domestic Violence Act, 2005 and under Sections 18, 19, 20 for Protection of Women from Domestic Violence Act, 2005.

3.The first petitioner is the mother-in-law, the second petitioner is the brother-in-law, the third petitioner is the sister-in-law and the fourth petitioner is the husband of the third petitioner.

4.The learned counsel for the petitioners submits that the respondent got married to the first petitioner's son on 19.02.2009 and the marriage reception was held on 05.06.2009, wherein the respondent had brought nine sovereigns of gold jewels and other household articles worth about Rs.70,000/- as Stridhana.

5.After the marriage, the respondent was living in the in-laws house at Muthumariamman Koil Street, Perumukkal Village and Post, Tindivanam Taluk, Villupuram Post. It is further averred in the complaint that from the next day of the marriage upon the instigation of the petitioners, the husband of the respondent demanded Hero Honda Motor Cycle and gold jewels.

6.Further, the husband of the respondent on suspicion over the respondent used to beat her and the respondent was not allowed to speak to her family members. The respondent was locked-up in a room without food and water, when she refused to their demand. The other petitioners had prevented the respondent from having husband and wife relationship. As such the husband of the respondent had deserted her. For which the respondent had preferred a complaint with All Women Police Station, Tindivanam, which was taken on file in C.S.R.No.102 of 2009. The Police failed to take action. During the first week of January, 2010, the respondent was thrown out from the matrimonial home by the petitioners and they threatened her that they would kill her if she returns back without jewel and motor cycle.

7.Further, the respondent came to know that her husband had developed an illicit intimacy with the daughter of the third and fourth petitioners/respondent Nos.5 and 6. Due to which, the respondent was put to mental agony and physical cruelties. Further, all the stridhanas properties including the jewels are in the custody of the first petitioner, namely the mother-in-law and with the husband of the respondent. Aggrieved against the same, the respondent had filed a complaint against the petitioners and her husband and father-in-law, who have been arrayed as Respondent Nos.1 to 6 in M.C.No.4 of 2010.

8.The learned counsel appearing for the petitioners/respondent Nos.3 to 6 herein had contended that except for the first petitioner, who is the mother-in-law with whom the respondent/complainant was living. With regard to respondents 4 to 6 they are living separately. At no point of time they were living in the shared household and the false case has been foisted against them by the respondent/complainant to wreck vengeance.

9.The contention of the second petitioner is that the second petitioner, who is the brother-in-law of the respondent has been employed as a Driver on a daily wages in the Office of the Principal Chief Conservator of Forest, Panagal Maligai, Saidapet, Chennai - 600 015 from the year 2004 and he has been residing at Vallal Pari Nagar, Pallikaranai, Chennai. Due to his employment, he has to stay put in Chennai and he had never shared the household with the respondent/complainant, in support of the same, he had filed the documents, namely, Identity Card of Government of Tamil Nadu Forest Department, Bank pass book, the receipts for his salary issued by the Principal Chief Conservator of Forest & Head of Forest Force, Chennai - 600 015, conduct certificates and attendance certificates issued by the Principal Chief Conservator of Forest, Panagal Maligai, Saidapet, Chennai - 600 015, which reveal that from July 2004 he has been employed as Driver in the Forest Department. Thus, it could be seen conclusively that the second petitioner, namely, the fourth respondent has been in Chennai from the year 2004 and he is still continuing as Driver in the Forest Department.

10.Likewise, the admitted case of the respondent/complainant is that the petitioners 3 and 4, namely the respondent Nos.5 and 6 are residing at Thenkodipakkam Village & Post, Tindivanam Taluk, Villupuram District. The main averment against the petitioners 3 and 4 is that her husband had developed an illegal intimacy with the daughter of the petitioners 3 and 4. It could be seen that the daughter of the petitioners 3 and 4 was of the age of 11 years and she was studying in VI Standard and it is beyond anybodies comprehension that such an allegation could be

even remotely possible. Except for a bald allegation, there is no specific overt act against the petitioners 2 to 4/respondent Nos.4 to 6.

11.In view of the above, it is conclusively proved that the petitioners 2 to 4/respondent Nos.4 to 6 have been implicated in the above case by the respondent/complainant with an ulterior motive to wreck vengeance on them. The proceedings against the petitioners 2 to 4/respondent Nos.4 to 6 is manifestly attended with mala fide, which is maliciously instituted.

12.In view of the guidelines of the Hon'ble Apex Court of India in the case of BHAJANLAL which squarely applicable to this case and as such the case against the petitioners 2 to 4/respondent Nos.4 to 6 stands quashed. With regard to the first petitioner/respondent No.3, being the mother-in-law of the husband of the respondent/complainant, having shared the common household and having domestic relationship the petition as against first petitioner/respondent No.3 is dismissed.

13.In fine, the Criminal Original Petition is partly allowed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

ah

To

1.The Judicial Magistrate No.2,
Tindivanam.

2.The Public Prosecutor,
High Court, Madras.

WEB COPY

Crl.O.P.No.15521 of 2010

CS/26/07/18