

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.No.18448 of 2018

and

CrI.M.P.Nos.9702 and 9703 of 2018

T.Yesammal

W/o.Joseph Manuel

.. Petitioner

Vs

Y.Malarvizhi

W/o.T.Yessian

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the entire records connected with the case in D.V.C.No.17 of 2017 in respect of the petitioner on the file of learned Judicial Magistrate II, Pollachi, Coimbatore District and quash the same.

For Petitioner : Mr.R.Y.George Williams

O R D E R

Yessian got married to Malarvizhi on 27.05.1994 and they have two children through the wedlock. Their marriage ran into rough weather resulting in the spouses getting estranged. Under such circumstances, Malarvizhi has initiated proceedings in D.V.A.No.17 of 2017 under the Domestic Violence Act before the learned Judicial Magistrate II, Pollachi, against her husband Yessian and sister-in-law Yesammal, for quashing which Yesammal is before this Court.

2. Heard Mr.R.George Williams, the learned counsel for Yesammal, who submitted that after 32 years of married life, Malarvizhi has initiated this proceeding on the instigation of her two brothers one of whom is said to be an Advocate and other is a Sub-Inspector of Police. He has further submitted that Yesammal is not living with Yessian and that she is living separately at Palladam.

3. This Court has given its anxious consideration to the rival submissions.

4. On a reading of the Domestic Incident Report in D.V.A.No.17 of 2017, Malarvizhi has alleged that both Yessian and his sister Yesammal are living in Door No.50A, Mathiazhagan Nagar and that Yessian will come drunk and start beating Malarvizhi. There are also allegations against Yesammal inasmuch as it is alleged that on 15.05.2016, both Yessian and Yesammal assaulted Malarvizhi and pushed her on the ground resulting in injuries to her. Thus, when there are prima facie materials, this is not a fit case to quash the proceedings. Hence, this petition is dismissed.

5. However, Yesammal is directed to appear before the Trial Court within two weeks from the date of receipt of a copy of this order and execute a bond under Section 88 Cr.P.C. for Rs.5,000/- (Rupees Five Thousand only) without sureties undertaking to appear before the Trial Court as and when required and further undertaking that she will not dispute her identity and that the Advocate engaged by her will cross-examine the witnesses on the date of her examination in chief. On such undertaking being given, the presence of Yesammal before the Trial Court is dispensed with. As and when the Trial Court requires her presence, the same may be informed in writing to her counsel and on that day, Yesammal will be present before the Trial Court. The Trial Court is directed to complete the proceedings in D.V.C.No.17 of 2017 within a period of six months from the date of receipt of a copy of this order provided there is no other legal impediment. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS VII)

//True copy//

Sub Assistant Registrar

gm

To

The Judicial Magistrate II,
Pollachi, Coimbatore District.

+1cc to Mr.R.Y.George Williams, Advocate SR.No.48887

Cr1.O.P.No.18448 of 2018

CNR (CO)
GN (06/08/2018)