

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.07.2018

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.2845 of 2010

and

Crl.M.P.No.1 of 2010

1.Rajesh Kalyanaraman

2.Kalyanaraman K
C/o. Padma Priya Pattabiraman

3.B.Murali

4.V.K.Swaminathan .. Petitioners

vs

1.R.Dheepa

2.The Protection Officer,
Domestic Violence Cell,
Singaravelan Building,
8th Floor,
Collectorate Building,
Chennai - 600 001. .. Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the records in C.C.No.16761 of 2009 on the file of the XXIII Metropolitan Magistrate Court, Saidapet, Chennai - 600 015 and quash the proceedings thereby discharge the petitioners in as much as the entire proceedings initiated by the first respondent is actuated by malice, hatred, ill-will and it is nothing but double jeopardy and sheer abuse of process of Court and process of law.

For Petitioners : Mr.R.Thiagarajan

For Respondent 1 : No appearance

For Respondent 2 : M/s.V.Saratha Devi
Government Advocate (Crl.side)

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O R D E R

This Criminal Original Petition is filed to call for the records in C.C.No.16761 of 2009 on the file of the XXIII Metropolitan Magistrate Court, Saidapet, Chennai - 600 015 and quash the proceedings thereby discharge the petitioners in as much as the entire proceedings initiated by the first respondent.

2.The petitioners, who have been arrayed as respondents on a complaint given by the first respondent to the second respondent, on 22.10.2009, which was forwarded by the second respondent to the learned XXIII Metropolitan Magistrate, Saidapet, Chennai, which has been assigned as C.C.No.16761 of 2009 under Sections 18, 19, 20, 21 and 22 of the Domestic Violence Act.

3.The first respondent, who is the wife of the first petitioner, the second petitioner is her father-in-law and the third petitioner is the nephew of her father-in-law and the fourth petitioner is the elder brother of her father-in-law.

4.The complaint against them is that the first respondent, a Chartered Accountant was married to the first petitioner, a Software Professional on 22.08.2005 at Good Shepherd Mahal, Nungambakkam High Road, Nungambakkam, Chennai - 600 034. After the marriage, they were living in Bangalore along with her in-laws, till February 2007, after which she went away to her parents place in Chennai for the delivery of her son, who was born on 31.07.2007. Thereafter, from September 2007, they were living in Chennai. During October 2008, there was a difference of opinion between them and they were separated. During the period of their marriage i.e. 2005 to 2008 the petitioners have subjected the first respondent to cruelty. Due to which, she had suffered domestic violence and hence, she had preferred the above complaint. In the meanwhile, there were matrimonial cases filed in Bangalore and Chennai and a case under Section 498-A was also filed against the petitioner in Bangalore.

5.The relief sought for in the Domestic violence petition filed by the first respondent is that the first petitioner was constantly demanding dowry and hence, she was chased out from the matrimonial home, sought protection for the son from kidnapping, to stop the first petitioner by fleeing to United States of America, as the first petitioner has obtained VISA for ten years for the purpose of staying in United States of America, to pay the EMI of the shared household and allowed to retain the child with the first respondent mother.

6.Today, when the case was called up, the counsel for the petitioner, the first petitioner K.Rajesh present and the first respondent Mrs.R.Deepa was also present.

7.It was submitted by the first respondent/complainant that there was a dispute between the first petitioner and the first respondent, which have been settled and cases pending between them are withdrawn. She had filed the typed set of papers in support of the same. In the typed set of papers, it could be seen that the High Court of Karnataka by its order dated 14.11.2016 in CrI.O.P.No.6836 of 2012 had stated that in paragraph No.2 of her affidavit, respondent No.2 has stated that the difference between herself and her husband are being settled in the reconciliation steps initiated by this Court and the learned Family Court, Chennai, and she is living with her husband continuing their matrimonial life and compromise is on her own will and volition, she do not want to proceed with the criminal proceedings in C.C.No.22678 of 2012 against all the accused persons pending before the learned 43rd ACMM Court, Mayo Hall Bengaluru for the offence under Section 498-A accepting the affidavit and recording the submission, the High Court of Karnataka had quashed the charge sheet filed in Cr.No.166 of 2011.

8.Both the first petitioner and the first respondent appeared and submitted that the first respondent had preferred a complaint before the XXIII Metropolitan Magistrate, Saidapet, Chennai - 600 015 in M.P.No.1497 of 2010 on 22.02.2010, which was forwarded to the Inspector of Police, W26 All Women Police Station, Ashok Nagar, Chennai, who had received the complaint and registered the case in Crime No.8 of 2010 for the offences under Sections 354, 498-A, 506(ii), 379 and 406 of the Indian Penal Code against the family members of the first petitioner, which is still pending and no charge sheet has been filed. The first respondent submits that she had already taken steps to close the above case.

9.In view of the matrimonial dispute and difference between the petitioners family and the first respondent have been settled. In this case also the petitioner and the first respondent represented before this Court that the dispute between them are settled and they are living together and all other differences have been sought out. The first respondent and the first petitioner had made an endorsement as follows:

"We are living together since 2016
in the interest of our 11 years old son.
Hence I do not wish to proceed with the

charges in the interest of our matrimonial home."

10.In view of the above endorsement, the proceedings in C.C.No.16761 of 2009 on the file of the XXIII Metropolitan Magistrate, Saidapet, Chennai - 600 015, is quashed.

11.Accordingly, the Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS v)

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Sub Assistant Registrar

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To

1.The XXIII Metropolitan Magistrate,
Saidapet,
Chennai - 600 015.

2.The Protection Officer,
Domestic Violence Cell,
Singaravelan Building,
8th Floor,
Collectorate Building,
Chennai - 600 001.

3.The Public Prosecutor,
High Court,
Madras - 600 104.

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ASK(18/09/2018)

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