IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Reserved on : 07.03.2018)

(Pronounced on :12 .06.2018

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.O.P.No.19399 of 2010
and
M.P.Nos.1 and 2 of 2010

1.R.Palaniyappan
2.P.Backiyalakshmi
3.Thangammal
4.Ravi
5.Revathi ... Petitioners/Accused

.. Vs ..

Kothai Nayaki ...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.42 of 2010 on the file of the Judicial Magistrate - 1, Gobichettipalayam and quash the same.

For Petitioners : Mr.E.C.Ramesh

For Respondent : Mr.R.Marudhachalamurthy and Mr.M.Guruprasad

ORDER

This criminal original petition is filed under Section 482 of Cr.P.C., to call for the records in C.C.No.42 of 2010 on the file of the Judicial Magistrate - 1, Gobichettipalayam and quash the same.

2. The brief facts which are necessary for determination of the case, are as follows:-

The respondent is the wife of Ashok and the petitioners 1 and 2 are the parents of the said Ashok and petitioners 3 and 4 are the daughter and son of the petitioners 1 and 2 and 5th petitioner is the grand-daughter of the first petitioner herein.

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The petitioners herein seeks to quash the proceedings under the Domestic Violence Act filed against them by the respondent herein along with the Ashok her husband.

3. After hearing both the parties and also on perusing the records, it is seen that the marriage between the respondent herein and the said Mr.Ashok was solemnized on 2.9.1990 and they have begotten two children and subsequently, there was misunderstanding between both the parties, which resulted in filing of H.M.O.P.No.31 of 2008 wherein an ex-parte decree of divorce was passed in favour of the husband Ashok on 20.04.2008 and after a lapse of one month, it appears that the said Ashok has re-married another person who is a widow at the time of the marriage on 10.07.2009.

4. It appears that the respondent-wife has filed in H.M.O.P.No.110 of 2009 on 1.10.2009 before the competent Court to set aside the ex-parte order. Thereafter, the respondent seems to have filed the application alleging Domestic Violence and also sought for interim maintenance and for restitution in C.C.No.42 of 2010 before the Judicial Magistrate, Gobichettipalayam.

5. After hearing both the parties at length and after taking note of the subsequent event taken place after the ex-parte decree, it appears that the husband namely, Ashok has remarried another person in the year 2009 and also taking note of the fact that these petitioners are only in-laws and considering the relief sought for, I am of the considered opinion that the ends of justice will be met, if the personal appearance of these petitioners is being dispensed with during the proceedings. However, they may be represented by the counsel and asked to appear before the Court as and when required and the quashment of the case at this juncture does not arise and accordingly, this Criminal Original Petition is dismissed with the above observation and liberty. The learned Judicial Magistrate, Gobichettipalayam, is directed to dispose of the Domestic Violence case within a period of twelve weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

The Judicial Magistrate - 1,
Gobichettipalayam.

+1cc to Mr.E.C.Ramesh, Advocate Sr.37137
+1cc to Mr.M.Guruprasad, Advocate Sr.37551 [22/06/2018]

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M.P.Nos.1 and 2 of 2010

srg 18/06/2018

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