

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.22368 of 2017

And

CRL.M.P.Nos.13108 & 13109 of 2017

1.D.Karthik

2.R.Dharmarajan

3.Tmt.Lakshmi

...Petitioners

Vs.

Tmt.Swarna Bharathi

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in DVC No.58 of 2017 on the file of the Judicial Magistrate, Additional Mahila Court, Salem and to quash the same.

For Petitioners

: Mr.M.Jegadeesh

Respondent

: Mr.V.Sekar & Mr.S.Mayilnathan

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ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in DVC No.58 of 2017, pending on the file of the Judicial Magistrate, Additional Mahila Court, Salem and to quash the same.

2.The first petitioner is the husband and second and third petitioners are his father and mother. The respondent got married to the first petitioner on 19.10.2016. As per the allegation made in the petition filed before the Court below, it seems that the first petitioner was facing Asthma problem and this was concealed at the time of the marriage. Due to the ill-health of the first petitioner, the same gave rise a lot of disputes among the first petitioner and the respondent. The respondent filed F.C.O.P No.282 of 2017, on the file of the family Court, Salem, seeking for a divorce.

3.In the mean time, the respondent also chose to file a petition under the Domestic Violence Act before the Court below seeking for the relief under Sections 18, 19 and 20 of the Act.

4.The learned counsel for the petitioners would submit that the petitioners are being made to run from one Court to another and the present petition is an abuse of process of the Court. The learned counsel would further submit that there are absolutely no allegations against the second and third petitioners and they have been unnecessarily added as respondents in the Domestic Violence Petition.

5.The learned counsel for the respondent would submit that there are sufficient allegations against all the petitioners in the Domestic Violence petition filed by the respondent. The learned counsel would further submit that filing of F.C.O.P. No.282 of 2017, for divorce has got nothing to do with the present petition filed by the respondent under the Domestic Violence Act.

6.This Court has carefully considered the submissions made on either side and also the materials placed on record.

7. A reading of the petition filed by the respondent clearly shows that there is a serious dispute between the first petitioner and the respondent. Sufficient allegations have also been made against the first petitioner and filing of F.C.O.P. No.282 of 2017, by itself is not a bar to maintain a petition under the Domestic Violence Act. The entire allegations and the relief sought for before the Court below revolves around the first petitioner. The second and the third petitioners should not have been made as parties before the Court below. Therefore, this Court is inclined to interfere with the proceedings only insofar as the second and third petitioners are concerned.

N.ANAND VENKATESH, J

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8.In the result this Criminal Original Petition is partly allowed and the petition insofar as the first petitioner is concerned, is hereby dismissed and the proceedings are quashed insofar as second and the third petitioners are concerned. The Court below is directed to dispose of the case in DVC No.58 of 2017, within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

11.12.2018

speaking/non-speaking order

Index : Yes / No

Internet : Yes / No

kal/tta

To

1. The Judicial Magistrate,
Additional Mahila Court,
Salem.

2. The Public Prosecutor,
High Court, Madras.

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