



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.10.2018
CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

WEB COPY

Cr1.O.P. (MD) .No.15931 of 2015
and
M.P. (MD) No.1 of 2015

1.S.Anjalai
2.S.Anbu Thendral
S.Selvi
4.S.Thilagavathi .. Petitioners/Respondents 2 to 5

Vs.

A.Gayathri .. Respondent/Complainant

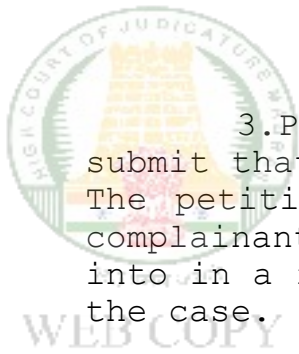
PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records and quash the Domestic Violence case in M.C.No.23 of 2015 on the file of the Judicial Magistrate (Additional Mahila Court), Trichy.

For Petitioner : Mr.T.R.Jeyapalam
For Respondent : Mr.C.Muthusaravanan

O R D E R

This quash petition is filed to quash the proceedings in M.C.No.23 of 2015 filed by the respondent/complainant under the Domestic Violence Act on the file of the Judicial Magistrate (Additional Mahila Court), Trichy.

2.The complaint has been filed by the respondent seeking injunction as against the petitioners and another, thereby restraining them from not to interfere with the life of the respondent and maintenance from the first respondent. The learned counsel for the petitioner would submit that admittedly, the petitioners are residing in different addresses. The husband is residing at Chennai, whereas the respondent is living in Trichy. Furthermore, after filing the divorce petition in H.M.O.P.No.146 of 2013 before the Sub Court, Perambalur for divorce by the husband, the wife also filed H.M.O.P.No.109 of 2013 before the Sub Court, Perambalur for restitution of conjugal rights. Thereafter, the present complaint has been filed by the respondent for maintenance and other reliefs. Further, he would submit that from the complaint it is seen that all the allegations made as against only the first respondent/husband and insofar as the petitioners are concerned no allegations except bald allegations and that too in general. Therefore, he sought for quashing the proceedings.



3. Per contra, the learned counsel for the respondent would submit that there are specific averments as against the petitioners. The petitioners are nothing other than the in-laws of the defacto complainant. The grounds raised in the petition have to be gone into in a full fledged trial. Therefore, he sought for dismissal of the case.

4. Admittedly, it is seen from the complaint that the entire allegations are only as against the first respondent/husband in the complaint and except the prayer of injunction restraining the petitioners from interfering with the peaceful living of the defacto complainant in the matrimonial home, there are no other allegations made as against the petitioners herein. Admittedly, they are living separately. Further it is also seen that after filing the divorce petition by the husband, the respondent herein filed H.M.O.P. for restitution of conjugal rights. Thereafter, the present complaint has been filed for maintenance that too under the Domestic Violence Act. It shows nothing but abuse of process of Court. Therefore, this Court is inclined to quash the proceedings as against the petitioners.

5. Accordingly, this Criminal Original Petition is allowed and the proceedings in M.C.No.23 of 2015 on the file of the Judicial Magistrate (Additional Mahila Court), Trichy, is quashed as against the petitioners alone. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Judicial Magistrate (Additional Mahila Court), Trichy

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr. T.R. Jeyapalam Advocate in SR.No.91958

+1cc to Mr. C. Muthusaravanan Advocate in SR.No.92381

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