



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.02.2018
Delivered on : 27.03.2018

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THE HONOURABLE MR.JUSTICE **P.RAJAMANICKAM**

CrI.O.P.(MD) No.13230 of 2017
and
CRL.M.P(MD).Nos.8953 & 8954 of 2017

1.Kannan

2.Shanmugathai

3.Sivagami @ Kuttiammal

4.Kalaiselvi

5.Srinivasan

6.Thirupathi

7.Selvaraj ... Petitioners/Respondents 1 to 7

-Vs-

Vimala ... Respondent/ Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the entire records pertaining to the petition filed under the Protection of Women from Domestic Violence Act, 2005 in D.V.O.P.No.2 of 2017 on the file of the District Munsif cum Judicial Magistrate Court, Peraiyur and quash the same as illegal.

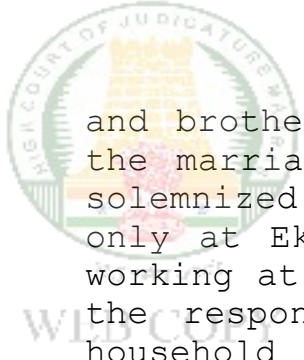
For Petitioners : Mr.R.Karunanidhi

For Respondent : Mr.A.Govindaraj

ORDER

This petition has been filed to quash the proceedings in D.V.O.P.No.2 of 2017 on the file of the District Munsif-cum-Judicial Magistrate, Peraiyur.

2.The learned counsel for the petitioners has submitted that the first petitioner is the husband of the respondent herein, second petitioner is the mother and other petitioners are sister



and brothers of the first petitioner. He further submitted that the marriage between the first petitioner and the respondent was solemnized on 12.09.2010 and thereafter, they led a marital life only at Ekattuthangal, Chennai, because the first petitioner was working at Chennai. He further submitted that at no point of time the respondent lived with the petitioners 2 to 7 in a shared household and therefore, the provisions of Domestic Violence Act will not attract.

3.The learned counsel for the respondent has submitted that all the petitioners belong to the same family and they are living as a joint family. He further submitted that the petitioners 1 to 7 have conspired and harassed the respondent by demanding dowry and also driven out the respondent from the matrimonial home and hence, the provisions of Domestic Violence Act would attract against all the petitioners herein.

4.The respondent herein has filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (herein after referred as 'the Act'), seeking certain reliefs under the aforesaid Act. The condition precedent for filing application under the Act is that the applicant/aggrieved person should have lived or living in a domestic relationship with the respondent. As per Section 2(f) of the Act, domestic relationship means "a relationship between two persons, who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;"

5.In this case, a perusal of the application filed by the respondent under Section 12 of the DV Act shows that the respondent herein has admitted that ten days after the marriage the first petitioner herein and herself have shifted their residence to Ekattuthangal, Chennai because the first petitioner herein was working at Chennai. So, it is clear that the respondent herein has not lived together or living with the petitioners 2 to 7 in a domestic relationship in the shared household. Therefore, the proceeding against the petitioners 2 to 7 in D.V.O.P.No.2 of 2017 on the file of the District Munsif-cum-Judicial Magistrate, Peraiyur, has to be quashed. In so far as the first petitioner is concerned, who is being a husband he has not denied the averments that he lived along with the respondent at Ekattuthangal, Chennai, and as such, *prima facie*, the provisions of the Act would attract against him and therefore, the proceedings against him cannot be quashed.

6.In the result, this Criminal Original Petition is partly ~~admitted~~ ^{quashed} in so far as the petitioners 2 to 7 are concerned, the proceedings in D.V.O.P.No.2 of 2017 on the file of the District Munsif-cum-Judicial Magistrate, Peraiyur, is quashed. In so far as



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the first petitioner is concerned, this petition is dismissed.
Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(AS)

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/True Copy/

Sub Assistant Registrar

To

The District Munsif-cum-Judicial Magistrate Court,
Peraiyur.

+ 1 cc TO Mr.R.Karunanidhi , Advocate in SR No. 58179

rmk/cp

AE/JC/SAR2/18.04.2018/3P/3C

Cr1.O.P.(MD) No.13230 of 2017
27.03.2018