



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.09.2018

WEB COPY

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
Crl.R.C(MD)Nos. 31 and 32 of 2017
and
Crl.M.P(MD) Nos.292 and 293 of 2017

1. Vijayakumar

2. Rajeswari

3. Selvi

4. Sureshkumar ... Petitioner in Crl.R.C.(MD) No.31 /17

Vijayakumar ... Petitioner in Crl.R.C.(MD) No.32 /17

Vs.

V.Subathara ...Respondent in both Crl.R.C(MD)s

Prayer in Crl.R.C(MD) No.31 of 2017: Revision filed under Section 397 r/w. 401 of the Code of Criminal Procedure, to set aside the order in Cr.M.P No.5752 of 2016 in M.C.No. 3 of 2015 on the file of the District Munsif cum Judicial Magistrate, Bodinayakanur.

Prayer in Crl.R.C(MD) No.32 of 2017: Revision filed under Section 397 r/w. 401 of the Code of Criminal Procedure, to set aside the order in Cr.M.P No.5751 of 2016 in M.C.No. 4 of 2015 on the file of the District Munsif cum Judicial Magistrate, Bodinayakanur.

For Petitioner : Mr.T.S.R.Venkatramana
in both Crl.Rc

For Respondent
In Crl.R.C(MD) 31 /17 :Mr.K.K.Kannan
In Crl.R.C(MD) 32/17 : No appearance

ORDER

This Criminal Revision cases have been filed to set aside the orders in Cr.M.P Nos.5751 and 5752 of 2016 in M.C.Nos. 4 and 3 of 2015 on the file of the District Munsif cum Judicial Magistrate, Bodinayakanur.

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2.Heard the learned counsel appearing for the petitioners and



the learned counsel appearing for the first respondent.

3. The contention of the revision petitioners are that the respondent herein is the wife of the first revision petitioner, who has initiated a criminal proceedings by filing a complaint to the Madiwala Police Station at Karnataka in Crime No.1412 of 2012 and taken cognizance by the III Additional Chief Metropolitan Magistrate, Bangalore for the offence under Section 498(A) of IPC and under the provisions of Dowry Prohibition Act. Meanwhile with same set of facts, she has also filed petition for maintenance and other protections under Section 12 of the Domestic Violence Act and Section 125 of Cr.P.C.

4. M.C.Nos. 3 and 4 of 2015 are now pending on the file of the District Munsif cum Judicial Magistrate, Bodinayakanur. The contention of the revision petitioner is that till the disposal of the criminal case which is pending in Bangalore investigated by Madiwala Police in Crime No.1412 of 2012, the maintenance application filed by the respondent should be stayed.

5. The said applications filed under Section 210 of Cr.P.C to stay all further proceedings pending disposal of the criminal complaint arising out of Crime No.1412 of 2012 on the file of the Madiwala Police Station was dismissed by the trial court on the ground that the scope and ambit of the criminal prosecution initiated and pending before the Bangalore Court is entirely different from the scope and ambit of the relief sought in M.C.No. 03 of 2015 under Section 12 of Domestic Violence Act and M.C.No. 4 of 2015 filed under Section 125 of Cr.P.C.

6. Aggrieved by the dismissal of the application, the present revision petition is filed on the ground under Section 210 of Cr.P.C.

7. As per Section 210 of the code if a complaint case (case filed and tried otherwise than police report) is pending trial, but for the same offence police is also investigating then, it is mandatory on the part of the Magistrate to stay all the proceedings till criminal investigation by the police is completed and consequential report is filed.

8. In this case admittedly the Madiwala Police has not completed the investigation and filed Final report upon the complaint lodged by the first respondent for offences under Section 498(A) of IPC. However the application filed by the first respondent before the District Munsif cum Judicial Magistrate Court, Bodinayakanur for offence under Section 12 of Domestic Violence Act and Section 125 of Cr.P.C Therefore the contention of the revision petitioner is that till the completion of the investigation in the two cases filed under Dowry Prohibition Act and Indian Penal Code, the case filed under Domestic Violence Act and 125 Cr.P.C to be stayed is beyond legal comprehension. Since they are not same



offence not under same act.

9. Section 210 of Cr.P.C reads as follows:

"When a case is instituted otherwise on police report and if it appears to the Magistrate during the course of enquiry of trial held by him in receipt of same offence he can stay the proceedings till the filing of final report"

10. Here is the case, the respondent has made certain allegations against the revision petitioners regarding offence under section 4 of Dowry Prohibition Act and under Section 498(A) of IPC which is a subject matter of Cr.No.1412 of 2012. Whereas M.C.No. 3 of 2015 and M.C.No.4 of 2015 as under Domestic Violence Act and 125 of Cr.P.C for a different cause of action and for different relief. While the crime under investigation in Crime No. 1412 of 2012 does not arise from the same offence. The trial court has rightly dismissed the petition for stay under Section 210 of Cr.P.C.

11. I do not find any error in the order of the Magistrate. Hence the revision petitions are dismissed. Consequently connected miscellaneous petitions are closed.

Sd/

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar (CS-III)

To

The District Munsif cum Judicial Magistrate,
Bodinayakanur.

+1cc to Mr.K.K.KANNAN, Advocate, SR.No.82937

+1cc to Mr.T.S.R.Venkatramana, Advocate, SR.No. 82589

CrI.R.C(MD)Nos. 31 and 32 of 2017

and

CrI.M.P(MD) Nos.292 and 293 of 2017

05.09.2018

AAV

KK/SV/SAR-3/08.10.2018/3P-4C