



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 04.01.2018
Delivered on: 19.01.2018

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CORAM :

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P(MD) .No.6925 of 2016
and
Crl.M.P.(MD) Nos.3486 of 2016 and 4306 of 2017

1.Senthilvel
2.RM.Shanmugam
3.Chellammal
4.S.Thangavel
5.Illavarasi
6.Vijayalakshmi
7.D.Chellathurai

... Petitioners/Respondents

Vs.

1.M.Sree Devi
2.Shreya Sree (Minor)
(Represented through
her mother)

... Respondents/Complainants

PRAYER: Criminal Appeal filed under Section 482 of Criminal Procedure Code, to call for the records of DVC 29 of 2016 pending on the file of the learned Additional Mahila Court, Trichirappalli and quash the same.

For Petitioners : Mr.V.S.V.Venkateshvaran
For R.1 : Mr.S.Vinod Sathya Lazar
For R.2 : Minor represented by R.1

ORDER

This Criminal Original Petition has been filed by the respondents to quash the proceedings of DVC No.29 of 2016, on the file of the Additional Mahila Court, Trichirappalli, (Magistrate Level).

2.The brief facts are as follows:-

<https://hcservices.courts.gov.in/hcservices/>
The first petitioner is the husband of the first respondent and the father of the second respondent, second and third



petitioners are the parents of the first petitioner, fourth petitioner is the brother of the first petitioner, fifth petitioner is the wife of the fourth petitioner, sixth petitioner is the sister of the first petitioner and seventh petitioner is the uncle of the first petitioner.

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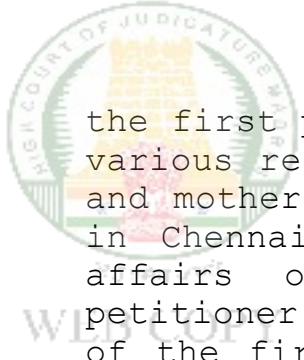
3. On 14.02.2011, a marriage was solemnized between the first petitioner and the first respondent in Taj Thiruman Mahal, Trichy. Out of the said wedlock, the second respondent was born on 19.11.2012. The petitioners 1 to 3 and the respondents lived together at Kariakudi and Chennai. Since the first petitioner is working in Bangalore, the respondents also stayed with him in Bangalore. The petitioners frequently quarrelled with the first respondent and harassed her by demanding more dowry and finally on 10.01.2015, the first petitioner driven out the respondents from the matrimonial home at Bangalore and from that date onwards, the respondents are residing in the first respondent's parents' house at Srirangam, Trichy. On 11.06.2015, the first petitioner has issued a legal notice through the Advocate to the first respondent to give consent for divorce and also to hand over the custody of the second respondent. For the said notice, the first respondent has sent a reply on 29.06.2015, through her Advocate. Thereafter, the first petitioner has filed H.M.O.P.No.71 of 2016, on the file of the Family Court, Trichy, for divorce and the said case is still pending.

4. The respondents herein have filed a petition under Section 125 of Cr.P.C. as against the first petitioner herein, claiming maintenance in M.C.No.141 of 2015, on the file of the Family Court, Trichirappalli, and the said petition is also still pending. Subsequently, the respondents herein have filed a petition in DVC No.29 of 2016, on the file of the Additional Mahila Court, Trichirappalli (Magistrate Level), under the Protection of Woman from Domestic Violence Act, 2005, (herein after referred to as "the Act"), seeking Protection Order under Section 18; Residence Order under Section 19; Order of Maintenance under Section 20 and Compensation Order under Section 22 of the Act, against the petitioners herein.

5. After receipt of the summons from the learned Additional Mahila Court, Trichirappalli (Magistrate Level), the petitioners herein have filed the present Criminal Original Petition, under Section 482 of Cr.P.C., to quash the proceedings in DVC No.29 of 2016.

6. Heard both sides.

7. The learned counsel for the petitioners submitted that the first respondent along with the minor second respondent has left the matrimonial home on her own accord, without assigning any reason and after passing of nearly 2 years, as an after thought



the first petitioner has filed the petition under the Act, seeking various reliefs. The second and third petitioners are the father and mother of the first petitioner and they are living separately in Chennai and they are not at all connected with any of the affairs of the first petitioner and respondents. Fourth petitioner is the brother of the first petitioner and the fifth petitioner is the wife of the fourth petitioner and they are living separately at Mettur Dam, Salem District and are not at all having any nexus with the allegations levelled by the first respondent. The sixth petitioner is living at Gopichettipalayam in Erode District and she is being the sister of the first petitioner has not even met the respondents after the marriage. The seventh petitioner is only a close relative to the first petitioner who is living at Pudukkottai District and he is also not at all having any connections with the respondents' family. He further submitted that at no point of time, the respondents lived with the petitioners 4 to 7 in Domestic Relationship. He further submitted that the respondents did not live at any point of time in a shared household. Since the first respondent is living with her parents on her own accord, she is not at all having any shelter under Sections 18 , 19 of the Act. He further submitted that the first respondent is a Engineering Graduate and she is earning more than Rs.60,000/- per month and as such she is not entitled to invoke Section 20 of the Act and hence he prayed to quash the proceedings in DVC No.29 of 2016.

8.The learned counsel for the respondents, on the contrary, has submitted that the petitioners are closely related to each other and they belong to the same family. He further submitted that after marriage, the first respondent lived with the petitioners in the shared household at Chennai and also at Karaikudi. He further submitted that the petitioners have caused cruelty to the first respondent by demanding more dowry and driven out the respondents 1 and 2 from the matrimonial home. He further submitted that the respondents are having enough materials, to show that the petitioners herein have committed domestic violence and they are ready to produce the same before the Trial Court, during enquiry. He further submitted that the petitioners have not made out the case to quash the proceedings in DVC No.29 of 2016 and hence he requested to dismiss the above petition.

9.Domestic Violence is defined under Section 3 of the Act. As per the said section any act, omission or commission or conduct of the respondent shall amount to domestic violence in certain circumstances. It includes causing physical abuse, sexual abuse, verbal and emotional or economic abuse.

10.Section 2 (q) defines "respondent" which reads as follows:-

<https://hcservices.ecourts.gov.in/hcservices/>

"(q) "respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and

against whom the aggrieved person has sought any relief under this Act."

11. From the aforesaid provision, it is clear that the respondent should be a person who is, or has been in a domestic relationship with the aggrieved person.

12. Now let us see what is "domestic relationship".

Section 2 (f) defines domestic relationship which reads as follows:-

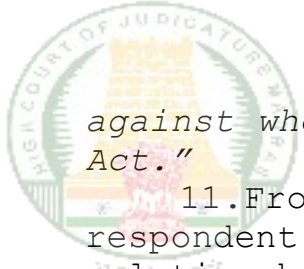
"(f) *"domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.*"

13. A plain reading of the aforesaid provision shows that for constituting domestic relationship the persons should live or lived together in a shared household at any point of time or are family members living together as a joint family.

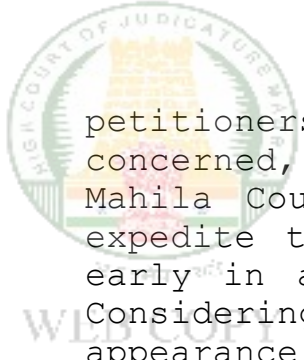
14. In this case, admittedly, the fourth respondent is the brother of the first petitioner and fifth petitioner is the wife of the fourth petitioner and they are residing at Mettur Dam in Salem District. Sixth petitioner, who is sister of the first petitioner, is residing at Gopichettipalayam in Erode District. Seventh petitioner is the uncle of the first petitioner and he is residing at Pudukkottai District. In the petition filed by the respondents herein in DVC No.29 of 2016, nowhere, it is stated that the petitioners 4 to 7 are living together or lived together with the respondents herein either in the shared household or as a joint family and hence it cannot be said that the petitioners 4 to 7 have been lived in a domestic relationship with the aggrieved persons, viz., the respondents herein. Therefore, the respondents herein cannot seek any relief against the petitioners 4 to 7 under the Protection of Women from the Domestic Violence Act, 2005 and consequently, the proceedings in DVC No.29 of 2016, on the file of the Additional Mahila Court, Trichirappalli (Magistrate Level) is liable to be quashed against the petitioners 4 to 7 herein.

15. Insofar as, the first petitioner is concerned, he is the husband of the first petitioner and father of the second respondent. Petitioners 2 and 3 are father-in-law and mother-in-law of the first respondent. A perusal of the petition filed by the respondents in DVC No.29 of 2016 would show that there is a *prima facie* case against the petitioners 1 to 3. So, the proceedings against them cannot be quashed at this stage.

16. In the result, insofar as, the petitioners 4 to 7 are concerned, the petition is allowed and the proceedings in DVC No.29 of 2016 on the file of the Additional Mahila Court (Magistrate Level), Trichirappalli, is quashed against the



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petitioners 4 to 7 herein. Insofar as, the petitioners 1 to 3 are concerned, this petition is dismissed. The learned Additional Mahila Court (Magistrate Level), Trichirappalli, is directed to expedite the enquiry in DVC No.29 of 2016 and dispose it of at early in accordance with law. There is no order as to costs. Considering the age of the petitioners 2 and 3, their personal appearance before the trial court is dispensed with.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

The Judge,
Additional Mahila Court,
(Magistrate Level),
Tiruchirappalli.

+1 cc to M/S.V.S.V.Venkateshvaran, Advocate in SR No.42913

+1 cc to M/S.S.Vinod Sathya Lazar, Advocate IN SR No.42944

gsp

AE/KKR/SAR-1/07.02.2018 : 5P/4C

Order made in
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