



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.[MD].No.20459 of 2018

and

CrI.M.P.(MD)Nos.9442 and 9443 of 2018

1.Kasthuri
2.Esakkimuthu
3.Surika
4.Parvathy
5.Usha

: Petitioners

Vs.

Sarawathy

: Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the entire records in relating to the impugned proceedings of D.V.O.P.No.15 of 2017 on the file of the learned Judicial Magistrate, Padmanabhapuram and to quash the same insofar as the petitioners are concerned.

For Petitioners : Mr.M.S.Jeyakarthik

ORDER

This Criminal Original Petition has been filed to call for the entire records in relating to the impugned proceedings of D.V.O.P.No.15 of 2017, on the file of the learned Judicial Magistrate, Padmanabhapuram.

2.The learned counsel for the petitioners would submit that the first petitioner is the sister-in-law of the respondent, the second petitioner is the husband of the first petitioner and the third petitioner is the daughter of the first and second petitioners. The fourth petitioner is the mother-in-law of the respondent and the fifth petitioner is the another sister-in-law of the respondent. He would further submit that admittedly, the matrimonial dispute is pending right from the year 2013 and the husband of the respondent/complainant had filed a petition for divorce as early as in the year 2013 and that the maintenance application was also pending. While so, during the year 2017, this proceedings have been initiated only the purpose of harassing these petitioners, who have nothing to do with the alleged matrimonial dispute between the respondent/complainant and her husband. He would further submit that the petitioners 1 to 3 had not at any point of time shared a



domestic relationship with the respondent/complainant and they have been unnecessarily roped in this case.

3. This Court is of the opinion that if the order of interim stay is granted it would stall the entire proceedings. The petitioners are directed to raise all these grounds before the concerned Court, where the proceeding is pending.

4. At this juncture, the learned counsel for the petitioners would pray that the presence of the petitioners may be dispensed with before the trial Court.

5. Accepting the said submission, the presence of the petitioners before the trial court shall be dispensed with on condition that they shall be properly represented by a counsel on all hearing dates.

6. The petitioners are further directed to give an undertaking in the form of affidavit that the Counsel representing him will cross examine the respondent/complainant and her witnesses on the day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event if their presence are insisted by trial judge for the purpose of identification. If the petitioners adopts any dilatory tactics, it is open to the Trial Court to insist for the appearance of the petitioner and deal with the petitioner in accordance with the judgment of Supreme Court of India, **in State of Uttar Pradesh Vs. Shambunath Singh**, reported in **JT 2001(4) SC 319**.

7. Accordingly, this Criminal Original Petition is closed. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

The Judicial Magistrate,
Padmanabhapuram.

+1cc to Mr.M.S.Jeya Karthik, Advocate, Sr.No.95701.

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and

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