



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Cr1.O.P.(MD).No.20949 of 2018

and

Cr1.M.P.(MD).Nos.9691 and 9692 of 2018

1.Vazhivittan @ Silambarasan

2.Paramasivam

3.Sraswathi

...Petitioners/Respondents

Vs.

Kanimozhi

... Respondent/Petitioner

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in D.V.A.No.9/2017, pending on the file of the learned Judicial Magistrate-II, Kovilpatti and quash the same.

For Petitioners : M/s.Laxmi Mahendraa

O R D E R

This Criminal Original Petition has been filed seeking to quash the proceedings in D.V.A.No.9/2017, pending on the file of the learned Judicial Magistrate-II, Kovilpatti.

2. The learned counsel for the petitioners would submit that the first petitioner is the husband and 2nd and 3rd petitioners are parents-in-law of the respondent. He would further submit that even as per the complaint, filed before the learned Judicial Magistrate No.II, Kovilpatti, the respondent/complainant had stated that she had left the matrimonial home and stay in her friend's house and the first petitioner has given a false complaint, stating that his wife is missing, knowing very well, that she was staying along with her friend and thereafter it has also been stated in the complaint that the first petitioner had filed a petition for divorce. He would also submit that the allegations in respect of the 2nd and 3rd petitioners are vague. Hence, the petitioners are prayed for quashing the impugned proceedings.

3. This Court is of the opinion that all these grounds can be raised before the trial court.

4. At this juncture, the learned counsel for the petitioners would submit that the first petitioner-husband has been regularly



appearing before the trial Court and would pray that the presence of the second and third petitioners before the court may be dispensed with, since they are the aged parents of the first petitioner and they have been unnecessarily roped in.

5. Accepting the said submission, the presence of the second and third petitioners before the trial Court shall be dispensed with on condition that they shall be duly and properly represented by a counsel on all hearing dates and that they will make themselves available before the court on the day of passing final orders.

6. The second and third petitioners are further directed to give an undertaking in the form of affidavit that the counsel representing them will cross examine the respondent and complainant and her witnesses on the day they are examined in chief. The second and third petitioners shall not dispute the identity of the witnesses. The second and third petitioners shall appear before the Court in the event if their presence is insisted by the trial Judge for the purpose of mediation. If the petitioners adopt any dilatory tactics, it is open to the trial court to insist for their appearance and deal with the petitioners 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. In view of the above, this Criminal Original Petition is closed. Consequently, connected miscellaneous petitions are closed.

Sd/

Assistant Registrar(W)

/True copy/

Sub Assistant Registrar(CS-IV)

To

1.The Judicial Magistrate-II, Kovilpatti.

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

SJI

KK/PM/SAR-4/19.12.2018/2P-3C

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