



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2018

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE **R.PONGIAPPAN**

Crl.O.P. (MD) No.12308 of 2013

and

M.P. (MD) .Nos.1 & 2 of 2013

1.Ponniah
2.Rajeswari

... Petitioners/Respondents 2 & 3

Vs.

Guruvammal

... Respondent/Petitioner

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in M.C.No.07/2013 on the file of the learned Judicial Magistrate No.I, Virudhunagar and quash the same as illegal.

For Petitioners : Mr.G.Marimuthu

For Respondent : Mr.T.Indrachithu

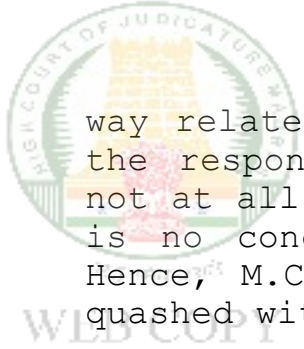
ORDER

The petitioners herein are second and third respondents in M.C.No.7 of 2013 on the file of the learned Judicial Magistrate No.I, Virudhunagar. This application has been filed to quash the said M.C.No.7 of 2013.

2. The respondent/petitioner is the wife of one Govindaraj, who is not party to the proceedings. The first petitioner herein is the father-in-law and the second petitioner is the friend of the said Govindaraj. The respondent/petitioner filed this application in the Trial Court for the relief provided under Sections 12, 19 and 22 of the Protection of Women from Domestic Violence Act, 2005.

3. Admittedly as of now, the first petitioner, Ponniah is no more. Hence, with regard to the first petitioner, this petition is dismissed as abated.

4. Insofar as the second petitioner is concerned, the first and foremost contention raised by the the learned counsel appearing for the petitioners is that the second petitioner is no



way related with the respondent herein as well as the husband of the respondent. Further, he added that the second petitioner is not at all residing under the same roof with the respondent. There is no conciliatory between the petitioners and the respondent. Hence, M.C.No.7 of 2013 filed by the respondent is liable to be quashed with regard to the second petitioner.

5. Now, before considering the submissions made by the learned counsel appearing for the petitioners, it is necessary to see the definition with regard to Section 2(f)(q) and Section 3 of the Prevention of Women from Domestic Violence Act, 2005, which read as follows:

"2(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;

2(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: Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner;

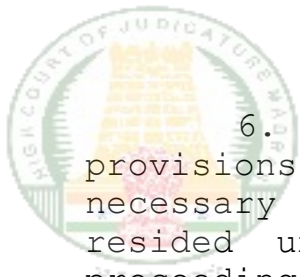
3. Definition of domestic violence.-For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it -

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person."



6. So, as per the above definition, in order to attract the provisions of Domestic Violence Act, domestic relationship is necessary and also the petitioner and the respondent may have resided under the same roof before the commencement of the proceedings. But, in this case, on going through the entire averments, it reveals that the respondent did not live directly with the second petitioner for which in paragraph No.7 of the petition, it was mentioned that the respondent only by hearing the news from others came to know that she is a concubine of her husband. So, the relationship between the second petitioner and the respondent does not come under the above definition of law. Thereby, in the instant case, the prayer sought for by the petitioners is reasonable and this Court is inclined to allow this petition.

7. Accordingly, this Criminal Original Petition stands allowed. The proceedings in M.C.No.7 of 2013, on the file of the learned Judicial Magistrate No.I, Virudhunagar is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate No.I, Virudhunagar.

+ 1 cc TO Mr.M.Jothi Basu , Advocate in SR No. 53994

PJL

AE/JC/SAR3/20.04.2018/3P/3C

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