



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 09.01.2018

Delivered on : 02.02.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

CrI.O.P. (MD) No.3419 of 2013

and

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

1.R.Venkatachalam

2.R.Gnanam @ Gnanasoundari

3.R.V.Ravichandran

4.R.Tamil Selvi @ Selvi

... Petitioners

Vs.

B.Jeeva

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the impugned proceedings in M.C.No.38 of 2012 on the file of the Judicial Magistrate Court No.I, Thoothukudi and quash the same insofar as the petitioners herein are concerned.

For Petitioners : Mr.T.Antony Arul Raj

For Respondent : Mr.S.Hari Gopalakrishnan

ORDER

The petitioners herein are the respondents 2 to 5 in M.C.No.38 of 2012 on the file of the Judicial Magistrate Court No.I, Thoothukudi.

2.This application has been filed by the petitioners under Section 482 Cr.P.C., to quash the proceedings relating to the abovesaid case insofar as the petitioners are concerned.

3.The said case was filed by the respondent herein viz., B.Jeeva, W/o.R.V.Baskaran, residing at Tuticorin. The said R.V.Baskaran is nothing but the son of the petitioners 1 and 2 herein. Accordingly, the daughter-in-law of the petitioners 1 and 2 filed the said case, in which, she prayed for the following reliefs:



seeking one or more reliefs under this Act:

Provided that before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider.

(2) The relief sought for under sub-section (1) may include a relief for issuance of an order for payment of compensation or damages without prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent:

Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the aggrieved person, the amount, if any, paid or payable in pursuance of the order made by the Magistrate under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, be executable for the balance amount, if any, left after such set off.

(3) Every application under sub-section (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto.

(4) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the Court.

(5) The Magistrate shall endeavour to dispose of every application made under sub-section (1) within a period of sixty days from the date of its first hearing.'

7. In this case, the petitioners 1 and 2 herein had given Rs.3,00,000/- to the respondent towards payment of compensation, which was agreed by her. So, even after receiving the said amount, filing an application against the petitioners, is a clear abuse of process of law, since the other prayers are not towards the petitioners. Accordingly, this Court comes to the conclusion that the case against the petitioners filed by the respondent is unwarranted. Therefore, the proceedings in M.C.No.38 of 2012 pending on the file of the Judicial Magistrate Court No.I, Theothukudi, insofar as the petitioners are concerned, are liable to be quashed. Accordingly, this Criminal Original Petition is allowed and the proceedings in M.C.No.38 of 2012 pending on the



file of the Judicial Magistrate Court No.I, Thoothukudi, stands quashed in respect of the petitioners alone. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate No.I,
Tuticorin.

+ 1 cc TO Mr.T.Antony Arul Raj , Advocate in SR No. 46059

smn2

AE/RSK/SAR1/12.02.2018/4P/3C

Cr1.O.P. (MD) No.3419 of 2013
02.02.2018