



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

CrI.O.P.(MD).No.5591 of 2013 and
M.P(MD).No. 1 of 2013

Sathya Bama

... Petitioner/5th Respondent

Vs.

1.Angala Eswari
2.Minor Raja Sangavi
3.Minor Raja Mani

Minor 2 & 3 respondents
represented by their mother
and guardian the 1st respondent ... Respondents/Petitioners

4.Chinna Sakkaiah
5.Ganthimathi
6.Ramanathen
7.Sakkaiah

... Respondents/1 to 4 Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the proceedings in Cr.M.P.No.435 of 2013 on the file of the Judicial Magistrate No.I, Virudhunagar and quash the same as against the petitioner herein.

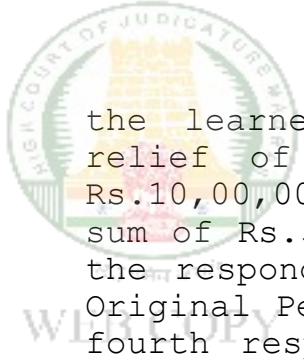
For Petitioners : Mr.T.Selvan
For R1 to R3 : Mr.G.Mariappan
For R4 to R7 : Mr.S.Krishnan

O R D E R

This petition has been filed to call for the records pertaining to the proceedings in Cr.M.P.No.435 of 2013 on the file of the Judicial Magistrate No.I, Virudhunagar and quash the same as against the petitioner herein.

2. The petitioner herein is the fifth respondent in Cr.M.P.No.435 of 2013 on the file of the learned Judicial Magistrate No.I, Virudhunagar. She filed this application to call for the records pertaining to the above said case and to quash the same.

3. On going through the facts of the case, it appears that the respondents 1 to 3 herein had filed an application under the provisions of Domestic Violence Act in Cr.M.P.No.435 of 2015 before



the learned Judicial Magistrate No.I, Virudhunagar, seeking the relief of protection, Maintenance of Rs.15,000/- per month or Rs.10,00,000/- in toto; directing the respondents therein to pay a sum of Rs.5,00,000/- towards damages and for injunction restraining the respondents from alienating their properties. In this Criminal Original Petition, the husband of the first respondent was added as fourth respondent and the father-in-law and other in-laws of the first respondent were added as respondents 5 to 7 herein. In the application filed by the first respondent, she made allegations against the petitioner that she is the concubine of fourth respondent, who is her husband.

4.Admittedly, the marriage between the first and fourth respondent was solemnized on 04.06.2003. At the time of marriage, the first respondent's family had given 25 sovereigns gold, Seethana articles worth about Rs.50,000/- and Rs.70,000/- cash to the fourth respondent. Out of their wedlock, the second and third respondents were born to them. Meantime, respondents 4 to 7 herein had treated the first respondent by saying that she is a habitual handicap. Further, they demanded a sum of Rs.1,00,000/- and 15 sovereigns gold. Further, the parents of the first respondent had deposited a sum of Rs.40,000/- in the Mallanginar Pandian Bank for the future welfare of the first respondent's daughter and her husband. After made threatening to the first respondent, the said amount was taken away by the fourth respondent. Hence, the case has been registered against the respondents 4 to 7, based on the complaint given by the first respondent for the offence punishable under Section 498-A of the Indian Penal Code. After filing of final report in that case, the same was taken on file as C.C.No.120 of 2008 on the file of the learned Judicial Magistrate Court, Aruppukottai, in which, all the accused in that case were acquitted.

5.Further, the first respondent herein filed a original petition before the Sub Court, Virudhunagar in H.M.O.P.No.15 of 2005 for the relief of restitution of conjugal rights. Thereafter, as of now, the first respondent herein filed the present Cr.M.P.No.435 of 2013, before the learned Judicial Magistrate No.I, Virudhunagar under the provisions of Domestic violence Act. According to the petitioner, she is a third party, she is no way related with the respondents herein. Only relationship between the fourth respondent and the petitioner is that they are working in the same office in different posts.

6.As per the submissions made by the learned counsel appearing for the petitioner, it appears that the petitioner and the fourth respondent are working in the Backward Class and Minority Welfare Department in the same office. Considering the above said fact that the petitioner was not related with the first respondent's family, in this connection, it is relevant to refer the Judgment of this Court in **Santineer Vincent Rajkumar and another Vs.R.Rejitha** reported in **2017 (2) TNLR 885 (Mad)**, wherein at Paragraphs Nos.18 and 19, it has been held as follows:

"18. Be that as it may, most important and significant aspect is that from the uncontroverted averments in the complaint as alluded to supra, it is clear that the complainant did not live along with her parents-in-law in the matrimonial home together under the same roof. As noted supra elsewhere in this order, parents-in-law were living in K.K.Nagar, whereas the matrimonial home of the complainant and her spouse were elsewhere (two different addresses as set out supra)

19. Turning to the quash petition before me, it is seen that the quash petition is also predicated on the pivotal ground that the complainant was not living with her parents-in-law under the same roof and therefore, Domestic Violence Act is not attracted. There is also a specific plea taken qua petitioner No.2 to the effect that petitioner No.2 (who is the mother-in-law of the complainant) is not a 'respondent' within the meaning of Section 2(q) of the Domestic Violence Act".

7. So, as per the observation of this Court for initiating proceedings under the Domestic Violence Act, the petitioner and the respondents compulsorily have been resided under the same roof. But, in this case, in the petition filed by the petitioner, nothing was averred by the petitioner, in what way, in which place, the petitioner and the first respondent are resided together. Moreover, the relationship between the respondents and the petitioner is not established by the learned counsel appearing for the respondents. Therefore, I have no hesitation to quash the proceedings initiated against the petitioner which is pending on the file of the learned Judicial Magistrate No.I, Virudhunagar.

8. Accordingly, the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate No.I,
Virudhunagar.

+ 1 CC TO Mr.T.SELVAN, ADVOCATE IN SR No. 54652

MSA

TE/KK/SAR-4 : 12/04/2018 : P/C

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