

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.521 of 2019 and
Crl.M.P.No.352 of 2019

1.Vinoth Kumar
2.Mary

... Petitioners

Vs.

Roobini

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to D.V.C.No.90 of 2018 on the file of Additional Mahila Court, Allikulam, Egmore, Chennai and quash the same.

For Petitioners : Mr.S.Venkatesh

For Respondent : Mr.M.Shankar

ORDER

This Criminal Original Petition has been filed to call for the entire records relating to the complaint in D.V.C.No.90 of 2018 on the file of the Additional Mahila Court, Allikulam, Egmore, Chennai and quash the same.

2.The 1st petitioner is husband and the 2nd petitioner is mother-in-law of the respondent and the marriage between 1st petitioner and the respondent Viz.,Roobini was solemnized on 14.09.2016. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home. Under this circumstance, the respondent herein filed a petition under Domestic Violence Act in D.V.C.No.90 of 2018 on the file of the Additional Mahila Court, Allikulam, Egmore, Chennai and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.90 of 2018 is pending for trial. At this stage, the petitioners herein who are the husband and the mother-in-law of the respondent pray to quash the proceedings in D.V.C.No.90 of 2018.

3.Heard Mr.S.Venkatesh, learned counsel for the petitioners and Mr.M.Shankar, the learned counsel appearing for the respondent.

4.It is seen that the relief sought for by the respondent in the domestic violence case with regard to residential rights, compensation, etc., can be made and claimed as against her husband, who is already a party in that case. The 2nd petitioner herein are only mother-in-law of the respondent and she is living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against this 2nd petitioner, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the 2nd petitioner against the respondent itself seems to be false. While that being so, there cannot be any act of any domestic violence as defined under Domestic Violence Act against this 2nd petitioner. In the absence of the same, the proceedings as against the 2nd petitioner cannot be maintained and consequently, the 2nd petitioner need not undergo the ordeal of facing a criminal trial.

5.In view of the above, this Court is inclined to quash the proceedings in D.V.C.No.90 of 2018, on the file of the Additional Mahila Court, Allikulam, Egmore, Chennai, insofar as 2nd petitioner is concerned, on condition that, they shall ensure that the 1st petitioner of the respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) per month before 5th of every English Calendar month to the credit of D.V.C.No.90 of 2018, on the file of the Additional Mahila Court, Allikulam, Egmore, Chennai, as ad-interim maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the respondent is entitled to withdraw the same.

6.Insofar as 1st petitioner/husband of the respondent is concerned dismissed and since the impugned proceedings in D.V.C.No.90 of 2018 is pending from the year 2018 onwards, it would be appropriate to direct the trial Court to complete the trial within a period of three months from the date of receipt of copy of this order. The 1st petitioner/husband of the respondent is directed to appear before the trial Court on the next hearing date, failing which, the respondent is at liberty to approach this Court.

7.In the result, this Criminal Original Petition stands partly allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vv2

To

The Additional Mahila Court, Allikulam,
Egmore, Chennai.

+1 cc to Mr.S.Venkatesh, Advocate Sr.No.20885

Cr1.O.P.No.521 of 2019

SS(CO)
CSL/23.04.2019



WEB COPY