

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.Nos.28456 of 2012 & 32313 of 2013
and
M.Nos.1 of 2012 and 1 & 2 of 2013

Crl.OP.No.28456 of 2012:

1.D.Stanley Prince
2.S.Devanbu
3.VasukiRani
4.Stedprince
5.Yovan
6.Banu

Vs.

Y.Jeeva Bharathi

... Petitioners

... Respondent

Crl.OP.No.32313 of 2013:

1.Jebarani
2.Rajiv John
3.Esther Rani
4.Kuilamma
5.Prasath
6.Rosilyn
7.Prabhu
8.Juliee

Vs.

Y.Jeeva Bharathi

... Petitioners

... Respondent

COMMON PRAYER: Criminal Original Petitions filed under Section 482 Cr.P.C. praying to call for the records in D.V.A.No.6 of 2012 on the file of the Judicial Magistrate III, Coimbatore and quash the same.

For Petitioners : Mr.D.J.Venkatesan
(in both cases)

For Respondent : No Appearance

COMMON ORDER

These criminal original petitions have been filed seeking to call for the records in D.V.A.No.6 of 2012 on the file of the Judicial Magistrate III, Coimbatore and quash the same.

2.The respondent herein in both the Criminal Original Petitions is the complainant, complained before the Protection Officer of the Domestic Violence Act. On the basis of the complaint, the Protection Officer enquired and submitted his report before the Judicial Magistrate. Subsequently, the respondent has also filed a private complaint under Section 200 of CPC for the offence under Section 12 of the Domestic Violence Act, before the learned Judicial Magistrate No.III, Coimbatore, which was taken on file as D.V.A.No.6 of 2012.

3.Pending D.V.A.No.6 of 2012 on the file of the learned Judicial Magistrate No.III, Coimbatore, the respondents 1 to 4, 7 and 8 therein have filed Crl.OP.No.28456 of 2012, under Section 482 of Cr.P.C before this Court and the respondents 5, 6, 9 to 14 therein have filed Crl.OP.No.32313 of 2013.

4.Learned counsel for the petitioners would submit that the first petitioner in Crl.OP.No.28456 of 2012 is the husband of the respondent herein and the petitioners 2 and 3 in the said petition are the father-in-law and the mother-in-law of the respondent herein respectively. The other petitioners are relatives of the first petitioner in Crl.OP.No.28456 of 2012. According to the counsel for the petitioners expect the petitioners 1 to 3 all other petitioners are not living under the same roof and notices sent by the Court clearly shows that the other petitioners are living separately.

5.Learned counsel for the petitioners further contended that the under Section 12 of the Domestic Violence Act, the Domestic relationship cannot be extended to other petitioners than the petitioners 1 to 3 in Crl.OP.No.28456 of 2012. He would also submit that the first petitioner in Crl.OP.No.28456 of 2012 filed a petition, seeking divorce in I.D.O.P.No.15 of 2010 and the same was dismissed. Even though the petition for restitution of conjugal rights was filed by the first petitioner/husband and the same was also dismissed. However, the said fact of the divorce petition has been filed, which has not been stated by the respondent either in the counter filed or to this petition. He would submits that the respondent has misused the provosio of the Domestic Violence Act and falsely implicated the case as against the first petitioner in Crl.OP.No.28456 of 2012 including with his relatives of the first petitioner. Therefore, he sought to quash the entire proceedings.

6.None appeared on behalf of the respondent. Heard the submissions of the learned counsel for the petitioner and perused the materials available on record.

7. On a bare perusal of the complaint as well as the counter filed by the respondent, it is clear that no specific allegations have been attributed against the petitioners except the petitioners 1 to 3. It is also clear that except the petitioners 1 to 3 all other petitioners are living separately. Therefore, the proviso of the Domestic Violence Act cannot be extended to the other petitioners except the petitioners 1 to 3. That apart it is stated that pending these Criminal Original petitions, the third petitioner died. Therefore, this Crl.OP.No.28456 of 2012 stands abated as against the third petitioner herein.

8. The proceedings pending before the learned Judicial Magistrate No.III, Coimbatore, in respect of the petitioners 4-6 in Crl.OP.No.28456 of 2012 and the petitioners in Crl.OP.No.32313 of 2013 shall stand quashed.

9. However, in respect of the petitioners 1 and 2 in Crl.OP.No.28456 of 2012, (who are the husband and the father-in-law of the respondent) the proceedings shall continue and this petition is dismissed in so far as the petitioners 1 and 2 in Crl.OP.No.28456 of 2012 are concerned.

10. In the result, in Crl.O.P.No.28456 of 2012 is dismissed as against the petitioners 1 and 2 and allowed in so far as the petitioners 4 to 6 are concerned. Since the third petitioner died, hence, as against the third petitioner, this petition is stands abated and Crl.OP.No.32313 of 2013 is allowed and the petition in D.V.A.No.6 of 2012 on the file of the Judicial Magistrate No.III, Coimbatore, is quashed as against the petitioners. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (JJ Act)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate III, Coimbatore.

+1 cc to M/s.D.J.Venkatesan, Advocate Sr.No.99545

+3 cc to M/s.D.J.Venkatesan, Advocate

Sr.Nos.99383, 99384 and 99546 (25.02.2020)

AKM/10.02.2020/3P- 6C / Crl.O.P.Nos.28456 of 2012 & 32313 of 2013
and MP.Nos.1 of 2012 and 1 & 2 of 2013

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