

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 01.10.2018
Pronounced on : 24.01.2019

CORAM
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.6549 of 2011
and Crl.M.P.Nos.1 & 2 of 2011

1.Shanmugasundaram
S/o.Kamatchi

2.Kamatchi

3.Kokilam
W/o.Kamatchi

4.Thangamani
W/o.R.Krishnakumar

5.Anburani
W/o.Ranganathan

6.Amudharani
W/o.M.Babu

... Petitioners

Versus

K.Sudha

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the proceedings in D.V.O.P.No.22 of 2010, on the file of the Judicial Magistrate Court No.II, Coimbatore and quash the same.

For Petitioners : Mr.R.Ravichandran for
Mr.C.Veeraraghavan

For Respondent : Mr.S.Chandrasekar

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O R D E R

This Criminal Original Petition is filed to call for the records relating to the proceedings in D.V.O.P.No.22 of 2010, on the file of the Judicial Magistrate Court No.II, Coimbatore and quash the same.

2.The first petitioner is the husband of the respondent; the second and the third petitioners are father-in-law and mother-in-law of the respondent; petitioners 4 to 6 are sister-in-laws of the respondent.

3.The petitioners are respondents in D.V.O.P.No.22 of 2010 filed by the respondent before the Judicial Magistrate No.II, Coimbatore for the offence under Section 12 of the Protection of Women from Domestic Violence Act, 2005, seeking protection against the domestic violence, seeking maintenance of Rs.20,000/- [Rupees twenty thousand only] for the respondent and her daughter from the first petitioner, return back of 30 sovereigns of gold jewels and Sreedhana articles, Rs.10,00,000/- [Rupees ten lakh only] as compensation for the damages occurred in the matrimonial home and other protection orders.

4.The case of the respondent is that the marriage between the first petitioner and the respondent had taken place on 26.02.2007. During the marriage, the first petitioner was having a Lathe workshop and the petitioners are having ancestral properties. On the recommendation of the relatives of the petitioners, the marriage was taken place.

5.After the marriage, the respondent along with the petitioner Nos.1 to 3 had lived as joint family. The petitioner Nos.4 to 6 had married earlier to the marriage of the respondent and the first petitioner and they were living separately with their respective families. Six months after the marriage, even for small issue the petitioners would find fault with the respondent and on instigation of the third petitioner, the first petitioner had assaulted the respondent.

6.On the demand of the petitioners, the respondent had approached her father and brought one sovereign of gold coin. Further on the demand of the petitioners, the respondent's father had conducted the baby shower function and thereafter, a female baby was borne to her. On 29.03.2010, the first respondent had threatened the respondent and on the same day the respondent had escaped from her matrimonial home and on 30.03.2010, the respondent had given a complaint to the Puliyakulam, All Women Police Station (East). On 07.05.2010, the first petitioner had given an undertaking that he would take proper care of the respondent and her female child and he also signed in it.

7.Based on the assurance the respondent would be taken back to the family life and a separate home would be set up. On contrary to the assurance the first petitioner had filed a divorce petitioner before the Family Court, Coimbatore. Till date the respondent and her baby had been taken care by the parents of the respondent and the first petitioner even having

sufficient income had not taken care of the respondent and her child and had not paid any money.

8.The contention of the learned counsel for the petitioners is that the petitioner Nos.4 to 6 have been married earlier to the marriage of the first petitioner and the respondent and they are living with their respective families and they had not shared their common household. The second and third petitioners are the father-in-law and the mother-in-law. The prayer sought in the Domestic Violence Act is that the first petitioner had not taken proper care and had failed to maintain his wife and child, for which she had sought monthly maintenance amount and the other prayers are all against the first petitioner. Admittedly, there is a divorce petition seeking desertion of the marriage between the first petitioner and the respondent, which is pending before the Family Court, Coimbatore in HMOP No.617 of 2010.

9.In this case, the respondent had not approached the Protection Officer and had filed the complaint directly before the Judicial Magistrate Court No.2, Coimbatore, though there is no bar to file such complaint. Without verifying the veracity of the petition, the entire family members are implicated. The Petitioner Nos.2 to 6 are implicate without any averment is nothing to spite vengeance.

10.In view of the above, this Court quashes the proceedings in D.V.No.22 of 2010 as against the petitioner Nos.2 to 6 alone. It is made clear that with regard to the first petitioner the petition stands dismissed.

11.Accordingly, this Criminal Original Petition stands partly allowed, since the case is pending trial from the year 2010 and the trial Court is directed to dispose the case as expeditiously as possible. Consequently, the connected Miscellaneous Petitions stand closed.

सत्यमेव जयते

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.II,
Coimbatore.

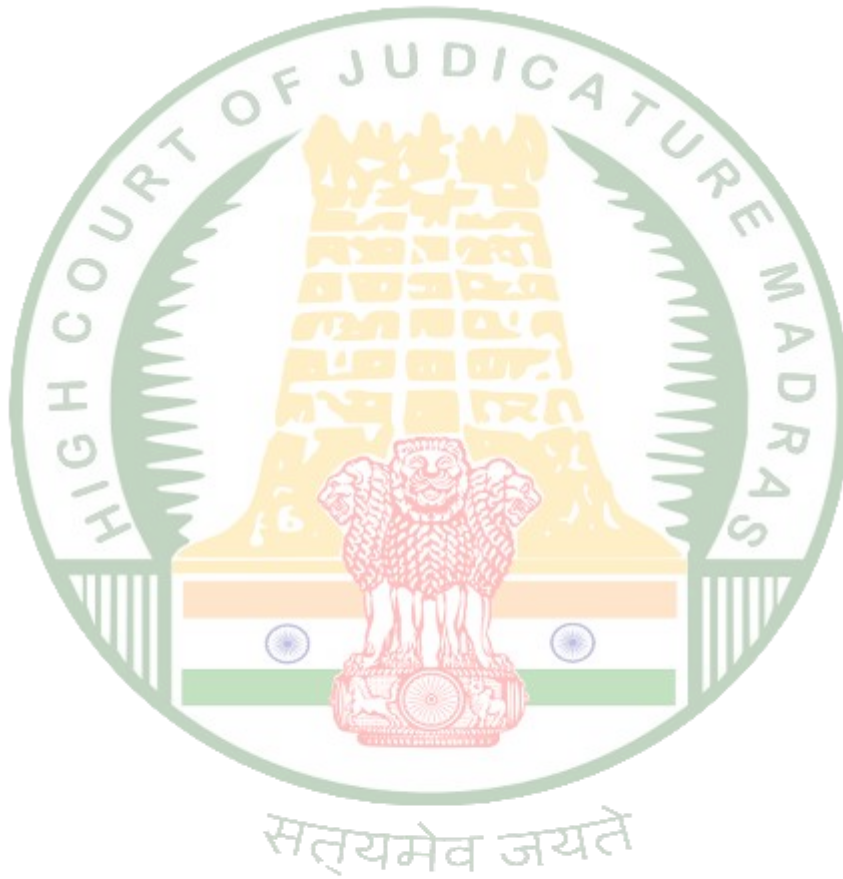
2.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.C.Veeraraghavan, Advocate, S.R.No.5750

Crl.O.P.No.6549 of 2011

NRL (CO)

rrs 18/02/2019



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