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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.26028 of 2013
and M.P.No.1 of 2013

V.Santhanam

..Petitioner

Vs

S.Satya

..Respondent

Prayer: Crl.O.P., filed under Section 482 of Cr.P.C., praying to call for the records in M.C.No.48 of 2013 under DVC Act before the XXIII Metropolitan Magistrate Court, Saidapet, quash the same.

For Petitioner : Mr.A.Arumugam

For Respondent : No appearance

ORDER

This Criminal Original Petition is filed praying to call for the records in M.C.No.48 of 2013 filed under Protection of Women from Domestic Violence Act, 2005, before the XXIII Metropolitan Magistrate Court, Saidapet, and seeks to quash the same.

2. Petitioner is the husband and respondent is the wife. Their marriage was solemnized on 07.02.1988. Out of their wedlock, they have got two female children. During their matrimonial living, they got misunderstanding. Due to the misunderstanding, the petitioner filed Divorce Petition in F.C.O.P.No.1164 of 1994 before the I Additional Family Court, Chennai. During the pendency of the F.C.O.P., the wife filed petition for restitution of conjugal rights in O.P.No.1036 of 1997. After the enquiry, the petition filed by the husband for divorce was dismissed and the petition filed by the wife for restitution of conjugal right was allowed. Even during the pendency of the F.C.O.P.1164 of 1994, the respondent filed a petition in M.C.No.114 of 1995 seeking maintenance for her and her children. After the disposal of F.C.O.P., she filed a suit for maintenance in O.S.No.106 of 1999. The Family Court, passed an interim maintenance order,



directing the petitioner to pay Rs.1,200/- to the respondent. Subsequently, the respondent/wife filed a complaint before the Protection Officer, Saidapet, on 03.07.2013 and based on the report, she also filed a case in M.C.No.48 of 2013 before the XXIII Metropolitan Magistrate, Saidapet, under the Protection of Women under Domestic Violence Act, 2005. Now, challenging the said proceedings filed in M.C.No.48 of 2013, this Crl.O.P., is filed, seeking to quash the same.

3. The learned counsel for the petitioner would submit that the petitioner was working as a Photographer in the Department of Police. The respondent/wife made false allegations against the petitioner and filed a complaint before the Protection Officer, Saidapet, on 03.07.2013. The allegations made against the petitioner is that he married one Kalaiselvi, a coworker in his office, and in view of the pendency of the said complaint under DV Act, the Department has taken action against him and his promotion prospects had been curtailed. It is further averred by the petitioner that even though the petition filed by the respondent for conjugal rights has been allowed in her favour, she has not chosen to join him and till date, she has not taken any steps to join the petitioner. The Petitioner is stated to have been paying interim maintenance to the respondent and her daughters, as ordered by the Family Court. The daughters who are residing with the respondent also filed suit for partition. The respondent did not stop with that but she has filed a complaint before the Protection Officer, Saidapet. Based on the report of the Protection Officer, a complaint has been filed by the respondent in M.C.No.48/2013 before the XXIII Metropolitan Magistrate, Saidapet, under the Protection of Women under Domestic Violence Act (hereinafter called as 'DV Act'). It is the contention of the petitioner that the attitude of the respondent/wife is that not to live with the petitioner and all the allegations made out against the petitioner are because of the petitioner living with his age old mother and widowed sister and the respondent wife in the same house, and not agreeing to the same, she is asking to set up a separate house and filed a complaint/petitions one after the other by making false allegations against him. In such circumstances, the petitioner came forward with this Crl.O.P., seeking to quash the complaint in M.C.No.48 of 2013.

4. None appeared on behalf of the respondent.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. The complaint filed by the respondent/wife is under Section 12(1) of Protection of Women under Domestic Violence Act, 2005. It is transpired that the Protection Officer also filed a report on the complaint preferred before him and the



complaint under DV Act, also reveals that the allegations levelled against the petitioner, meet out the ingredients of provisions of D.V.Act. Hence, under these circumstances, this court does not find any reason to quash the complaint in M.C.No.48 of 2013 pending before XXIII Metropolitan Magistrate, Saidapet, Chennai. However, the petitioner is at liberty to take all defence before the Magistrate, wherein, the complaint under DV Act is pending. Accordingly, the CrI.O.P., is dismissed. Consequently, connected M.P., is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nvsri
To

1.The XXIII Metropolitan Magistrate Court,
Saidapet.

+1cc to Mr.A.Arumugam, Advocate SR.101242

CrI.O.P.No.26028 of 2013

BP(CO)
CB(20/01/2020)