

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.01.2019

CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

Cr1.O.P.No.5632 of 2013

and

M.P.No.1 of 2013

1. Sarala
2. Anusuya
3.G.Sakunthala ... Petitioners/Accused

Vs.

Suguna ... Respondent/petitioner

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceedings in C.C.No.5579 of 2012 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai-8.

For Petitioners : Mr.T.R.Ravi
For Respondent : No appearance

O R D E R

This petition has been filed by the respondents 2 to 4 to quash the proceedings against them in C.C.No.5579 of 2012 on the file of the V Metropolitan Magistrate, Egmore, Chennai.

2. The respondent herein had filed a petition before the Protection Officer stating that the first respondent therein is her husband, the respondents 2 and 3 therein are sisters of her husband and the fourth respondent therein is the mother of her husband and they have committed domestic violence and asked certain reliefs under the Protection of Women from Domestic Violence Act, 2005. Based on the said petition, the protection officer has conducted enquiry and submitted a domestic incident report before the V Metropolitan Magistrate, Egmore, Chennai. Based on the said report, the learned V Metropolitan Magistrate, Egmore, Chennai, has taken the case on file in C.C.No.5579 of 2012 and issued notice to the respondents therein.

3. After receipt of notice, the respondents 2 to 4 therein have filed the present petition under Section 482 Cr.P.C., to quash the proceedings against them in

C.C.No.5579 of 2012 on the file of the V Metropolitan Magistrate, Egmore, Chennai.

4. Though notice to the respondent herein through court was served on 01.01.2019 and her name also has been printed in the cause-list, she has not appeared either in person or through counsel. Hence after hearing the arguments of the learned counsel for the petitioners and perusing the records, order is being passed in this petition.

5. Learned counsel for the petitioners has submitted that in the domestic incident report itself, it is clearly stated that the petitioners 1 and 2 are residing somewhere else and not in the shared household and therefore, the protection of women from Domestic Violence Act, 2005, will not attract against them. He further submitted that in the petition filed before the protection officer, the respondent herein has claimed only residential right in the house and as such, she should have filed a civil suit for partition and instead of doing so, with a view to harass the petitioners, she has filed petition before the protection officer. He further submitted that there is no material to show that the petitioners herein have committed any domestic violence as contemplated under the protection of women from Domestic Violence Act and therefore, he prayed to quash the proceedings against the petitioners herein.

6. A perusal of the domestic incident report shows that the address for respondent herein has been given as she is residing with her husband in a house bearing D.No.46/25 Nelvayal Road, Perambur, Chennai - 11. Further, it is stated that the third petitioner herein/4th respondent also residing in the same house. However, in the said report, it is stated that the petitioners 2 and 3 herein/respondents 2 and 3 therein are residing somewhere else. Further it is stated that the petitioners 2 and 3 herein already married and they were residing with their husbands. The condition precedent for entertaining the petition under the protection of women from Domestic Violence Act, is that the aggrieved person, who is or has been in a domestic relationship with the respondent in a shared household. In this case, as already pointed out that the petitioners 1 and 2 are sisters of the respondent's husband and they got already married and they are residing somewhere else and therefore, the provisions of the protection of women from Domestic Violence Act, 2005, would not attract against the petitioners 1 and 2. In so far as the petitioner No.3 is concerned, in the domestic incident report, it is clearly stated that she is also residing with her son (first respondent therein) along with the respondent

herein in Door.No.Bearing No.46/25, Nelvayal Road, Perambur, Chennai - 11. In such a case, this court is of the view that there are materials to proceed against the petitioner No.3 herein under the provision of protection of Women from Domestic Violence Act, 2005. Therefore, this court is not inclined to quash the proceedings against her.

7. In the result, this petition is allowed in so far as the petitioner Nos.1 and 2 are concerned. The proceedings against the petitioner Nos.1 and 2 herein in C.C.No.5579 of 2012 on the file of V Metropolitan Magistrate, Saidapet, Chennai, are quashed. In so far as the petitioner No.3 is concerned, this petition is dismissed. Consequently, connected miscellaneous petition is closed. Considering the fact that the age of the third petitioner has been mentioned as 80 years, her personal appearance before the trial court is dispensed with. She has to appear before the trial court as and when directed by the trial court.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

gv
To

1.The V th Metropolitan Magistrate,
Egmore,
Chennai-8.

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and
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A.SK(13/02/2019)

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