

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.8579 of 2018  
and CRL.M.P.Nos.12516,12517 and 4429 & 4430 of 2018

1.Abishegam  
2.Anthoniammal  
3.Ms.Sofia Princy Justin ... Petitioners

Vs.

1. D.Nancy Gnana Soundari  
2. The Protection officer  
Domestic Violence Act,  
District Social Welfare Office,  
Krishnagiri-635 001. ....Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in D.V.No.26 of 2017 on the file of the Judicial Magistrate Court No.I, Krishnagiri and quash the entire proceedings as far as against the petitioners are concerned.

For Petitioners : Mr.V.Jeevagiridharan

For R2 : Mr.Mohamed Riyaz  
Additional Public Prosecutor

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O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.No.26 of 2017 on the file of the Judicial Magistrate Court No.I, Krishnagiri.

2. The petitioners are in-laws of the 1<sup>st</sup> respondent herein and the marriage between one Arun Abishegam and the 1<sup>st</sup>

respondent was solemnized on 17.08.2016. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home. Under these circumstances, the husband of the 1<sup>st</sup> respondent filed a petition seeking divorce and the same was numbered as IDOP.No.01 of 2018, on the file of the learned Principal District Judge, Krishnagiri. After filing this divorce petition, the 1<sup>st</sup> respondent herein had made a complaint before the All Women Police Station, Barugu, and implicated the petitioners herein as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.A.26 of 2017 is pending for trial. At this stage, the petitioners herein who are the in-laws of the respondent pray to quash the proceedings in D.V.A.No.26 of 2017.

3. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the 2<sup>nd</sup> 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 petitioners herein are only in-laws of the respondent and they are living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against these petitioners/ in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 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 these petitioners. In the absence of the same, the proceedings as against these petitioners cannot be maintained and consequently, the petitioners 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 DVA.No.26 of 2017, on the file of the Judicial Magistrate-I, Krishnagiri, insofar as these petitioners are concerned. Insofar as A1/husband of the respondent is concerned, since the impugned proceedings in DVA.No.26 of 2017 is pending from the year 2017 onwards, it would be appropriate to direct the trial Court to complete the trial within a period of six months from the date of receipt of copy of this order. The husband of the respondent viz., Arun Abishegam, is directed to appear before the trial Court on the next hearing date, failing which, the 1<sup>st</sup> respondent is at liberty to approach this Court.

6. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate Court No.I,  
Krishnagiri.

2. The Protection officer  
Domestic Violence Act,  
District Social Welfare Office,  
Krishnagiri-635 001.

3. The Public Prosecutor,  
High Court, Madras.

+1 cc to Mr.V.Jeevagiritharan, Advocate, S.R.No.10008

+1 cc to Mr.C.Samivel, Advocate, S.R.No.10357

CRL.O.P.No.8579 of 2018  
and CRL.M.P.Nos.12516,12517  
and 4429 of 2018

LN(CO)  
SSM(22/03/2019).

सत्यमेव जयते

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