

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.9605 of 2016
and Crl.M.P.Nos.4962 & 4963 of 2016 and 9932 of 2017

1.Suresh @ Ranganathan
2.Ponnusamy
3.Lakshmi @ Thangamani
4.Sampath Kumar
5.Gomathi Petitioners/Accused

Vs.

1.The Protection Officer
Protection of Women from Domestic Violence Act, 2005,
District Social Welfare Office,
Erode.
2.Nirmala @ Nirmala Devi ...Respondents/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in D.V.A.No.03 of 2016 on the file of the Judicial Magistrate No.I, Erode and quash the same.

For Petitioners : Mr.V.Anandamoorthy

For RR1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For RR2 : Mr.M.Guruprasad

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O R D E R

This Criminal Original Petition has been filed to call for the records in D.V.A.No.03 of 2016 on the file of the Judicial Magistrate No.I, Erode and quash the same.

2. The petitioners are the husband and the in-laws of the respondent and the marriage between A1/Suresh @ Ranganathan and the respondent Viz.,Nirmala @ Nirmala Devi was solemnized on

12.03.2014. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home. Under this circumstance, the respondent herein filed a petition under Domestic Violence Act in D.V.A. No.3 of 2016 on the file of the Judicial Magistrate No.I, Erode and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.A.No.3 of 2016 is pending for trial. At this stage, the petitioners herein who are the husband and the in-laws of the respondent pray to quash the proceedings in D.V.A.No.3 of 2016.

3. Heard Mr.V.Anandamoorthy, learned counsel for the petitioners and Mr.M.Mohamed Riyaz, learned counsel appearing for the 1st respondent and Mr.M.Gruruprasad, learned counsel appearing for the 2nd 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 2 to 5 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 petitioners 2 to 5/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 2 to 5 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 petitioners 2 to 5. In the absence of the same, the proceedings as against petitioners 2 to 5 cannot be maintained and consequently, the petitioners 2 to 5 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.3 of 2016, on the file of the Judicial Magistrate No.I, Erode, insofar as petitioners 2 to 5 are concerned, on condition that, they shall ensure that the A1/husband of the respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) per month before 5th of every English Calendar month to the credit of DVA.No.3 of 2016, on the file of the Judicial Magistrate No.I, Erode, as ad-interim maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the respondent is entitled to withdraw the same.

6. Insofar as A1/husband of the respondent is concerned, since the impugned proceedings in DVA.No.3 of 2016 is pending from the year 2016 onwards, it would be appropriate to direct the trial Court to complete the trial within a period of three

months from the date of receipt of copy of this order. Al/husband of the respondent is directed to appear before the trial Court on the next hearing date, failing which, the respondent is at liberty to approach this Court.

7. In the result, this Criminal Original Petition stands disposed of. Consequently, the connected miscellaneous petition are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

pds/lok

To

- 1.The Protection Officer
Protection of Women from Domestic Violence Act, 2005,
District Social Welfare Office,
Erode.
 - 2.The Judicial Magistrate No.I, Erode
 - 3.The Additional Public Prosecutor,
High Court of Madras.
- +1cc to Mr.V.Anandhamurthy, Advocate SR.No.16860
- +1cc to Mr.M.Guruprasad, Advocate SR.No.16877

सत्यमेव जयते

CrI.O.P.No.9605 of 2016
and CrI.M.P.Nos.4962 & 4963 of
2016 and 9932 of 2017

CP (CO)
GMY (28/03/2019)

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