

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.8822 of 2018
and Crl.M.P.Nos.4551 & 4552 of 2018

S.A.Ramajeyam

... Petitioner

Vs.

N.Kumudha

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in D.V.C.No.75 of 2017 on the file of the Court of XVIII Metropolitan Magistrate, Saidapet, Chennai, and quash the same.

For Petitioner : Mr.M.Balaji

For Respondent : Mr.R.Aranganathan

ORDER

The Criminal Original Petition has been filed to quash the Domestic Violence Complaint given by the respondent herein in D.V.C.No.75 of 2017, on the file of the Court of XVII Metropolitan Magistrate, Saidapet, Chennai.

2.The petitioner is the father-in-law of the respondent and the marriage between A1/R.Kumaran and the respondent Viz., N.Kumudha was solemnized on 30.04.2009. 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.C.No.75 of 2017 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai and implicated the petitioner as party to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.75 of 2017 is pending for trial. At this stage, the petitioner herein who is the father-in-law of the respondent pray to quash the proceedings in D.V.C.No.75 of 2017.

3. Heard, the learned counsel appearing for the petitioner and the learned counsel appearing for the 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 petitioner is the father-in-law of the respondent and he is living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against petitioner/father-in-law, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioner 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 petitioner. In the absence of the same, the proceedings as against petitioner cannot be maintained and consequently, the petitioner need not undergo the ordeal of facing a criminal trial.

5. It is also seen from the records, Al/husband of the respondent is continuously paying a sum of Rs.20,000/- per month towards maintenance and to that effect a memo has been filed before the Court below.

6. In view of the above, this Court is inclined to quash the proceedings in D.V.C.No.75 of 2017, on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai insofar as petitioner is concerned, on condition that, he shall ensure that the Al/husband of the respondent shall continue to deposit a sum of Rs.20,000/- (Rupees twenty thousand only) per month on or before 5th of every English Calendar month to the ***Saving Bank account of the respondent herein** 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 Al/husband of the respondent is concerned, since the impugned proceedings in D.V.C.No.75 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 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 is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)
Dated:12/05/2019

*Modified as per order of
this Court dated 19/09/2019 and
made in CrI.M.P.No.13412/19 in
CrI O.P.No.8822/18
Sd/-
Assistant Registrar(CO)
Dated:24/09/2019

//True Copy//

Sub Assistant Registrar

pam/rts

To

The XVIII Metropolitan Magistrate,
Saidapet, Chennai.

To be substituted to the
order already despatched
on 05/07/2019

Copy to

**The Section Officer,
Criminal Section, High Court, Madras
(to list the matter on 24/10/19)**

+2cc to Mr. R.Aranganathan, Advocate, S.R.No. 28404
+1cc to Mr. M.Balaji, Advocate, S.R.No. 28308

+1cc to Mr.M.Ganesh, Advocate Sr.80589

CrI.O.P.No.8822 of 2018
and CrI.M.P.Nos.4551 & 4552 of 2018

RSV(CO)
GN(21/05/2019)

srg 25/09/2019