

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6193 of 2019
and Crl.M.P.No.3426 of 2019

Sangeetha ... Petitioner/2nd Respondent

Vs.

1. Deepa ... 1st Respondent/Petitioner
2. Karthikeyan
3. Uma Maheswari ... 2nd & 3rd Respondents/Respondent 1 & 3

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the entire records pertaining to D.V.O.P.No.3 of 2018 on the file of the Judicial Magistrate-II, Mettur and quash the same.

For Petitioner : Mr.R.Rajarajan

For 1st Respondent : M/s.C.A.Prabaharan
for R1

ORDER

This Criminal Original Petition has been filed by the petitioner seeking to quash the D.V.O.P. No.3 of 2018 pending on the file of the learned Judicial Magistrate-II, Mettur Dam, Salem District.

2. The petitioner is the sister-in-law of the first respondent herein and the marriage between A1/Karthikeyan and the first respondent Viz., Deepa was solemnized on 28.02.2009. Thereafter, due to matrimonial disputes the first respondent and her husband were living separately from the matrimonial home. Under this circumstance, the first respondent herein filed a petition under Domestic Violence Act in D.V.O.P.No.03 of 2018 on the file of the Judicial Magistrate - II, Mettur Dam, Salem District and implicated the respondents and her husband as parties to the petition and sought action as against them under

Domestic Violence Act. The said D.V.O.P.No.03 of 2018 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.O.P.No.03 of 2018.

3. Heard Mr.R.Rajarajan, learned counsel appearing for the petitioner and Mr.C.A.Prabaharan for the first respondent.

4. It is seen that the relief sought for by the petitioner 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 respondents therein are only in-laws of the petitioner and they are living separately. As such, the protection order sought for by the petitioner therein in the domestic violence case against the respondents/in-laws therein, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioner against the respondents 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, petitioner 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 D.V.O.P.No.03 of 2018, on the file of the Judicial Magistrate - II, Mettur Dam, Salem District, insofar as petitioner is allowed, 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 on or before 5th of every English Calendar month to the credit of D.V.O.P.No.03 of 2018, on the file of the Judicial Magistrate-II, Mettur Dam, Salem District, 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 D.V.O.P.No.03 of 2018 is pending from the year 2018 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. A1/husband of the first respondent is directed to appear before the trial Court on the next hearing date, failing which, the first respondent is at liberty to approach this Court.

7. In the result, this Criminal Original Petition stands allowed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Deputy Registrar (CS)

//True copy//

Sub Assistant Registrar

msm

To

The Judicial Magistrate-II, Mettur Dam, Salem District.

CrI.O.P.No.6193 of 2019

BR (CO)
GMY (28/05/2019)



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