

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6708 of 2019 and

Crl.M.P.No.3711 of 2019

1.M.Kalyani
2.M.Hemapriya

...Petitioners

-Vs-

E.Elavarasi

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in D.V.O.P.No.20 of 2018 on the file of the learned Judicial Magistrate No.1, Vellore and quash the same insofar as the petitioners are concerned.

For Petitioners : Mr.R.Karthikeyan

For Respondent : No Appearance

ORDER

The criminal original petition has been filed to quash the proceedings in D.V.O.P.No.20 of 2018 on the file of the learned Judicial Magistrate No.1, Vellore and quash the same as illegal, incompetent and without jurisdiction by allowing the present criminal original petition.

2.The petitioners are in-laws of the respondent and the marriage between A1/Vijayachandran and the respondent Viz.,Elavarasi was solemnized. 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.O.P.No.20 of 2018 on the file of the learned Judicial Magistrate No.1, Vellore, and implicated the petitioners 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.20 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.20 of 2018.

3. Heard Mr.R.Karthikeyan, the learned counsel for the petitioners. Though notice was served, none appeared on behalf of 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 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 petitioners. In the absence of the same, the proceedings as against petitioners cannot be maintained and consequently, 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 D.V.O.P.No.20 of 2018 on the file of the learned Judicial Magistrate No.1, Vellore, insofar as petitioners 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 on or before 5th of every English Calendar month to the credit of D.V.O.P.No.20 of 2018 on the file of the learned Judicial Magistrate No.1, Vellore, 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.20 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 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 allowed. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Judicial Magistrate,
Judicial Magistrate Court No.1,
Vellore

+1 CC to Mr.R.Karthikeyan Advocate Sr.No.38971

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RSV(CO)
KP(31/05/2019)



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