

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2019

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.5534 of 2019
and
Crl.MP.No.3164 of 2019

Sengouttouvane

... Petitioner/R3

Vs.

Mrs.Vinotha

... Respondent

Prayer:

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the complaint in D.V.A.No.1 of 2019 on the file of the Judicial Magistrate No.II, Puducherry and quash the same as far as the petitioners are concerned.

For Petitioner : Mr.V.Sakkarapani

For Respondent : Mr.E.Iyappan

O R D E R

This Criminal Original Petition has been filed seeking to quash the D.V.A.No.1 of 2019, on the file of the Judicial Magistrate No.II, Puducherry.

2.The marriage between the petitioner's brother and the respondent was performed. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home. Thereafter, the petitioner's brother/husband of the respondent sent a legal notice to the respondent asking her to live with him. The respondent's husband was working at France and living there separately. Thereafter, the respondent lodged a complaint as against her husband and the petitioner herein before the All Women Police Station, Puducherry, which was later withdrawn. Under these circumstances, the respondent herein filed a petition under Domestic Violence Act and implicated her brother-in-law as a party to the petition and seeks action against him under Domestic Violence Act. The said D.V.A.No.1 of 2019, is pending for trial before the learned Judicial Magistrate No.II,

Puducherry. At this stage, the petitioners herein who is brother-in-law of the respondent prays to quash the proceedings in D.V.A.No.1 of 2019.

3.Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent.

4.It is seen that the relief sought for in the domestic violence case with regard to residential rights, compensation can be made and claimed against her husband, who is already a party in that case. The petitioner herein is only the brother-in-law of the respondent and they were living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against these petitioner/brother-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 these petitioner. In the absence of the same, the proceedings as against this petitioner cannot be maintained and consequently, the petitioner need not undergo the ordeal of facing a criminal trial.

5.In the result, this Criminal Original Petition stands allowed. Consequently, the proceedings in D.V.A.No.1 of 2019, on the file of the Judicial Magistrate No.II, Puducherry, insofar as this petitioner is concerned, is quashed. Connected miscellaneous petition is also closed.

6.Considering the nature of allegations, 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. However, the A1/husband is directed to appear before the trial Court on the next hearing date, failing which the defacto complainant is at liberty to approach this Court.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

rm

To:

The Judicial Magistrate No.II,
Puducherry.

+1cc to Mr.V.Sakkarapani, Advocate, S.R.No.37149

Cr1.O.P.No.5534 of 2019

CS/14/06/2019



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