

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.5556 of 2019

and

Crl.M.P.No.3172 of 2019

1.B.Senthil @ Pratheep Kumar  
2.P.Balasubramaniam  
3.Saroja  
4.Shobha

... Petitioners/Respondent

Vs.

T.S.Kasthuri

...Respondent/Petitioner

Prayer:

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in D.V.A.No.9 of 2011 on the file of the learned Judicial Magistrate VI, Coimbatore and quash the same.

For Petitioners: M/s.K.Venkatakrishnan

For Respondent : Mr.B.Nedunchezhiyan

सत्यमेव जयते  
ORDER

This petition has been filed to call for the records pertaining to D.V.A.No.9 of 2011 pending on the file of the Judicial Magistrate VI, Coimbatore and quash the same as illegal, incompetent and without jurisdiction by allowing the present criminal original petition.

2. The petitioners 2 to 4 are in-laws of the respondent and the marriage between 1st petitioner/B.Senthil @ Pratheep Kumar and the respondent Viz.,T.S.Kasthuri was solemnized on 28.08.2007. 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.9 of 2011 on the file of the Judicial Magistrate VI, Coimbatore, 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.A.No.9 of 2011 is pending for trial. At this stage, the petitioners 2 to 4 herein, who are the in-laws of the respondent pray to quash the proceedings in D.V.A.No.9 of 2011.

3. Heard Mr.K.Venkatakrishnan, learned counsel for the petitioners and Mr.B.Nedunchezhiyan, 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 petitioners 2 to 4 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 2 to 4/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 4 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 4. In the absence of the same, the proceedings as against petitioners 2 to 4 cannot be maintained and consequently, petitioners 2 to 4 need not undergo the ordeal of facing a criminal trial.

5. It is also seen from the records, the respondent/wife filed a maintenance case in M.C.No.71 of 2010 before the learned Principal Judge, Family Court, Coimbatore, and the same was allowed by directing the A1/husband of the respondent to pay a sum of Rs.12,000/- per month as maintenance. As against which A1/husband of the respondent filed a Revision Petition before this Court in Crl.R.C.No.1142 of 2015 and this Court imposed a conditional order to pay a sum of Rs.6,000/- per month and A1/husband of the respondent is continuously paying the said sum till now.

6. In view of the above, this Court is inclined to quash the proceedings in D.V.A.No.9 of 2011, on the file of the Judicial Magistrate VI, Coimbatore, insofar as petitioners 2 to 4 are allowed, on condition that, they shall ensure that the A1/husband of the respondent shall continue to deposit a sum of Rs.6,000/- (Rupees Six Thousand Only) per month on or before 5<sup>th</sup> of every English Calendar month to the credit of D.V.A.No.9 of 2011, on the file of the learned Judicial Magistrate VI,

Coimbatore, 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.

7. Insofar as first petitioner/husband of the respondent is concerned, since the impugned proceedings in D.V.A.No.9 of 2011 is pending from the year 2011 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. The first petitioner/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.

8. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate VI, Coimbatore.

2.The Public Prosecutor, High Court, Madras.

+1cc to Mr.B.Nedunchezhiyan, Advocate sr.no.35124

+1cc to M/s.K.Venkatak Krishnan, Advocate sr.no.35604

सत्यमेव जयते

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and

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nr 30/04/2019

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