

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.21612 of 2018
and Crl.M.P.Nos.11809 & 11810 of 2018

Selvakumar

... Petitioner

Vs.

L.Leeladevi

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records relating to the complaint in D.V.A.No.1 of 2018 on the file of the learned Judicial Magistrate Court No.2, Pollachi, quash the same by allowing this criminal original petition.

For Petitioner : Mr.D.R.Arun Kumar

For Respondent : Mr.R.Nandhakumar

O R D E R

This Criminal Original Petition has been filed to call for the records relating to the complaint in D.V.A.No.1 of 2018 on the file of the learned Judicial Magistrate Court No.2, Pollachi, quash the same by allowing this criminal original petition.

2. The petitioner is in-law of the respondent and the marriage between Al/Nithyanandahan and the respondent Viz.,L.Leeladevi was solemnized on 25.05.2001. 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.1 of 2018 on the file of the Judicial Magistrate No.2, Pllachi, and implicated the petitioner and others as parties to the petition and sought action as against him under Domestic Violence Act. The said D.V.A.No.1 of 2018 is pending for trial. At this stage, the petitioner herein is the in-law of the respondent pray to quash the proceedings in D.V.A.No.1 of 2018.

3. Heard Mr.D.R.Arun KUmar, learned counsel for the petitioner and Mr.R.Nandhakumar, 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 herein is only in-law of the respondent and is living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against petitioner/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. In view of the above, this Court is inclined to quash the proceedings in DVA.No.1 of 2018, on the file of the Judicial Magistrate Court No.2, Pollachi, insofar as petitioner is concerned, on condition that, he shall ensure that the A1/husband of the respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) per month before 5th of every English Calendar month to the credit of DVA.No.1 of 2018, on the file of the Judicial Magistrate Court No.2, Pollachi, 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 DVA.No.1 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, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

pds/lok

To

The Judicial Magistrate,
Court No.2, Pollachi.

+1cc to Mr.R.Nandhakumar, Advocate, S.R.No.16915

+1cc to Mr.D.R.Arunkumar, Advocate, S.R.No.16859

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SSI (CO)

RRS (09/04/2019)



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