

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.8473 of 2019 and
CrI.M.P.No.4513 of 2019

1.K.Raguraman
2.Rajanarayani

...Petitioners

-Vs-

Sharmila

... Respondent

Prayer:

Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in D.V.C.No.6 of 2018 on the file of the learned Judicial Magistrate-I at Puducherry and quash the same.

For Petitioners : Mr.C.Krishnakumar

For Respondent : No Appearance

ORDER

This petition has been filed to call for the records pertaining to D.V.C.No.6 of 2018 pending on the file of the learned Judicial Magistrate-I at Puducherry and quash the same as illegal, incompetent and without jurisdiction by allowing the present criminal original petition.

2.The petitioners are the husband and the in-law of the respondent and the marriage between A1/K.Raguraman and the respondent Viz.,Sharmila was solemnized on 10.06.2012. 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.C.No.6 of 2018 on the file of the learned Judicial Magistrate-I at Puducherry, and implicated the petitioners and other in-laws as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.6 of 2018 is pending for trial. At this stage, the petitioners herein who are the husband and the in-law of the respondent pray to quash the proceedings in D.V.C.No.6 of 2018.

3. Heard Mr.C.Krishnakumar, the learned counsel for the petitioners.

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 second petitioner is only an in-law of the respondent and she is living separately. As such, the protection order sought for by the respondent in the domestic violence case against the second petitioner / in-law, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the second 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 the second petitioner. In the absence of the same, the proceedings as against the second petitioner cannot be maintained and consequently, the second 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.C.No.6 of 2018 on the file of the learned Judicial Magistrate-I at Puducherry and the same is quashed insofar as the second petitioner alone.

6. Insofar as A1/husband of the respondent is concerned, since the impugned proceedings in D.V.C.No.6 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 petition is closed.

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Sd/-
Assistant Registrar(J)
//True Copy//

Sub Assistant Registrar

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To

The Judicial Magistrate-I,
Puducherry

Crl.O.P.No.8473 of 2019

CS/27/06/2019



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