

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.17254 of 2018 and
CRL.M.P.No.8914 & 6052 of 2019

1.Monojkumar
2.Thirumalairaj
3.Karthiyayini
4.Arinath

... Petitioners/Respondents

Vs.

Suja Monojkumar ... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C,. to call for the records and quash the entire proceedings in D.V.C.No.22 of 2017, pending on the file of the learned Judicial Magistrate, Tambaram.

For Petitioners: Mr.M.Manivasagam for
M/s.M.Manivasagam
For Respondent : M/s.Auxilia Peter

ORDER

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.22 of 2017, pending on the file of the Judicial Magistrate Court, Tambaram.

2.The petitioner Nos.2 to 4 are in-laws of the respondent and the marriage between 1st petitioner/husband and the respondent viz.,Suja was solemnized on 19.01.2006. Thereafter, due to matrimonial disputes the respondent and her husband/1st petitioner 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.22 of 2017 on the file of the Judicial Magistrate Court, Tambaram and implicated the petitioner Nos.2 to 4 as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.22 of 2017 is pending for trial. At this stage, the petitioner Nos.2 to 4 herein pray to quash the proceedings in D.V.C.No.22 of 2017.

3.Heard Mr.M.Manivasagam, learned counsel for the petitioners and M/s.Auxilia Peter, 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/1st petitioner, who is already a party in that case. The petitioner Nos.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 petitioner Nos.2 to 4, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioner Nos.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 these petitioner Nos.2 to 4. In the absence of the same, the proceedings as against the petitioner Nos.2 to 4 cannot be maintained and consequently, the 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.C.No.22 of 2017, on the file of the Judicial Magistrate Court, Tambaram, insofar as these petitioner Nos.2 to 4 are concerned, on condition that, they shall ensure that the 1st petitioner/husband of the respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of D.V.C.No.22 of 2017, on the file of the Judicial Magistrate Court, Tambaram, 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 1st petitioner/husband of the respondent is concerned, since the impugned proceedings in D.V.C.No.22 of 2017 is pending from the year 2017 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 1st 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.

7.In the result, these Criminal Original Petitions stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (AD-IV)

//True copy//

Sub Assistant Registrar

vv2

To

The Judicial Magistrate Court,
Tambaram.

+lcc to Mr.Auxilia Peter, Advocate SR.No.42209

CRL.O.P.No.17254 of 2018

JP (CO)
GMY (21/06/2019)



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