

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2019

CORAM:

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

CRL.O.P.No.10125 of 2014

and CRL.M.P.Nos.1 & 2 of 2014

K.Mala

... Petitioner

Vs.

Dhanuja @ Dhanalakshmi

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in M.C.No.13 of 2013 on the file of the learned Additional Mahila Court, Chengalpet and quash the same.

For Petitioner : Mr.N.Suresh

For Respondent : R.Muniyapparaj

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in M.C.No.13 of 2013, filed by the respondent herein, pending on the file of the Additional Mahila Court, Chengalpet.

2.The petitioner is the second wife of Al/Jyothi and the marriage between Al/Jyothi and the respondent Viz., Dhanuja @ Dhanalakshmi was solemnized on 05.07.2000. 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 M.C.No.13 of 2013 on the file of the Additional Mahila Court, Chengalpet and implicated the petitioner as party to the petition and sought action as against her under Domestic Violence Act. The said M.C.13 of 2013 is pending for trial. At this stage, the petitioner herein who is the second wife of Al/Jyothi pray to quash the proceedings in M.C.No.13 of 2013.

3.Heard Mr.N.Suresh, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned counsel 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 the second wife of Al/Jyothi and she is living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against this petitioner, 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 this 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 view of the above, this Court is inclined to quash the proceedings in M.C.No.13 of 2013, on the file of the Additional Mahila Court, Chengalpet, insofar as this petitioner is concerned, on condition that, she shall ensure that the A1/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 M.C.No.13 of 2013, on the file of the Additional Mahila Court, Chengalpet, 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 M.C.No.13 of 2013 is pending from the year 2013 onwards, it would be appropriate to direct the trial Court to complete the trial within a period of two 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 petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

AT

To

The Additional Mahila Judge,
Chengalpet.

+1cc to M/s.RMR Indian Law Firm, Advocate, S.R.No.16539
+1cc to Mr.N.Suresh, Advocate, S.R.No.16484

CRL.O.P.No.10125 of 2014
and CRL.M.P.Nos.1 & 2 of 2014

MG (CO)
rrs 21/03/2019