

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.10763 of 2014
and Crl.M.P.Nos.1 & 2 of 2014

1.Murugappan Ram Murugappan

2.Sivagami Murugappan

... Petitioners/Respondents 1&2

Vs.

Visalakshi Thiagarajan Murugappan

...Respondent/Petitioner

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records and to quash all the proceedings against the petitioners in M.C.No.35 of 2014 pending on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai as the continuation of the case would amount to abuse of the process of law.

For Petitioners: Mr.Gopinath
for C.Sundaresan

For Respondent : Mr.R.Iyyakannu

ORDER

This petition has been filed to call for the records and to quash all the proceedings against the petitioners in M.C.No.35 of 2014 pending on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai as the continuation of the case would amount to abuse of the process of law.

2. The learned Senior Counsel for the petitioners would submit that the marriage between the first petitioner and the respondent was held on 09.09.1994 and due to their wedlock, a female child was born on 04.09.1996. Thereafter due to matrimonial disputes both of them filed petitions in the Family Court, which were later withdrawn by them and they started living together. Thereafter she moved to Canada for employment and later the first petitioner and the minor child also went to Canada and lived with him. While being so, without informing to the first petitioner, the respondent left their house along with the minor daughter. Thereafter the respondent filed a divorce case in Superior Court of Justice, Ontario, Canada and also

obtained divorce by order dated 31.01.2008. The first petitioner filed a petition in O.P.No.3312 of 2006 before the Family Court, Chennai for dissolution of marriage, wherein the respondent also filed a maintenance petition in M.C.No.491 of 2008 in the representative capacity for the minor daughter.

3. The learned Senior Counsel for the petitioners further submits that the Superior Court of Justice, Ontario by order dated 04.03.2008 granted divorce and had granted custody of the minor daughter and also granted permission for the minor daughter to apply for Canadian passport and thereby the minor daughter has also become a citizen of Canada. Further, the shares of the Moto Photo business and the entire business have been vested with the respondent as such the entire proceedings in M.C.No.35 of 2014 has to be quashed.

4. Heard the learned Senior Counsel for the petitioners and the learned counsel for the respondent.

5. It is seen that the petitioner filed divorce petition before the Family Court, Chennai in HMOP.No.3312 of 2016 in which the petitioner also filed a petition to withdraw the said divorce petition and it is pending. In fact the respondent has filed an application in IA.No.1930 of 2013 for interim maintenance, in which Rs.90,000/- was ordered as maintenance payable by the first petitioner as against which the first petitioner has filed C.M.A.No.439 of 2015, wherein this Court has remitted back the matter for fresh consideration on condition that the first petitioner shall deposit a sum of Rs.5,00,000/- and the interim maintenance petition is also pending before the Family Court.

6. It is also seen that the respondent filed divorce petition before the Superior Court of Justice, Ontario, Canada and obtained divorce by an order dated 31.01.2008. She also became a canadian citizen having permanent domicile of Canada. Thereafter in the year 2014 again she filed a complaint under the Domestic Violence Act seeking so many reliefs under Sections 17, 18, 18E, 19, 20 and 22 of Domestic Violence Act as against the first petitioner. In fact, the respondent did not state anything about the divorce decree obtained by her at Canada and suppressed the said fact while filing the complaint under the Domestic Violence Act. Insofar as the second petitioner is concerned, she is none other than the mother of the first petitioner and mother in law of the respondent.

7. It is seen that the second petitioner is only mother in-law of the respondent and living separately. As such, the protection order sought for by the respondent herein 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. Therefore, the proceedings impugned in this petition is nothing but clear abuse of process of law.

8. Considering the above facts and circumstances of the case, this Court is inclined to quash the proceedings initiated by the respondent under the Domestic Violence Act. Accordingly, proceedings in M.C.No.35 of 2014 pending on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

pds/lok

To

The XVIII Metropolitan Magistrate,
Saidapet, Chennai.

+1cc to Mr.N.Iyyakkannu, Advocate, S.R.No.16190

+2ccs to Mr.C.Sundaresan, Advocate, S.R.No.16510

CrI.O.P.No.10763 of 2014
and

CrI.M.P.Nos.1 & 2 of 2014

SJ(CO)

RRS (02/05/2019)

सत्यमेव जयते

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