

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2019

CORAM:

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

Cr1.O.P.No.4949 of 2014 and
M.P.No.1 of 2014

1.Pajani Radja
2.Chanemougam
3.Marie

[correct name is Sansjeneelur]

... Petitioners

Vs.

Roselin Mary

... Respondent

Prayer:

Criminal Original Petition filed under section 482 of Criminal Procedure Code, to quash the proceedings in M.C.No.31 of 2013 on the file of Judicial Magistrate No.II, Pondicherry.

For Petitioner : Mr.N.S.Sivakumar

For Respondent : Mr.Stalin Abimanyu

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in M.C.No.31 of 2013, filed by the respondent herein, pending on the file of the Judicial Magistrate Court No.II, Pondicherry.

2. The petitioners are husband and in-laws of the respondent and the marriage between the first petitioner and the respondent was solemnized on 15.07.2012. 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 M.C.No.31 of 2013 on the file of the Judicial Magistrate No.II, Pondicherry and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said M.C.No.31 of 2013 is pending for trial. At this stage, the petitioners herein who are the husband and in-laws of the respondent pray to quash the proceedings in M.C.No.31 of 2013.

3. Heard Mr.N.S.Sivakumar, learned counsel for the petitioners and Mr.Stalin Abimanyu, 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/first petitioner, who is already a party in that case. The petitioners 2 & 3 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 the petitioners 2 & 3, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 2 & 3, 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 petitioners 2 & 3. In the absence of the same, the proceedings as against the petitioners 2 & 3 cannot be maintained and consequently, the petitioner 2 & 3 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.31 of 2013 on the file of the Judicial Magistrate Court No.II, Pondicherry, insofar as the petitioners 2 & 3 are concerned, on condition that, they shall ensure that the first 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 M.C.No.31 of 2013 on the file of the Judicial Magistrate No.II, Pondicherry, as ad-interim maintenance, without prejudice to both the parties till the disposal of M.C.No.31 of 2013, failing which this order shall stand automatically cancelled. On such deposit being made, the respondent is entitled to withdraw the same.

6. Insofar as the first petitioner/husband of the respondent is concerned, since the impugned proceedings in M.C.No.31 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 three months from the date of receipt of copy of this order. The first 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, this Criminal Original Petition stands

partly allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rts

To

The Judicial Magistrate No.II,
Pondicherry.

+lcc to Mr.N.S.Sivakumar, Advocate, S.R.No.13512
+lcc to Mr.Stalin Abimanyu, Advocate, S.R.No.13777

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and M.P.No.1 of 2014

CS/04/04/2019



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