

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.7527 of 2017

and

Crl.M.P No.5444 of 2017

1.V.Jeyaprakash
2.V.Anbarasi
3.R.Vasagar
4.Krishna Prabhu

...Petitioners/Respondents

Vs.

Prathima

...Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records in D.V.C No.15 of 2017 now pending on the file of the learned Additional Mahila Metropolitan Magistrate, Egmore at Chennai and quash the same.

For Petitioner : Mr.Praveen Alexander

For Respondent : Mr.S.Arivazhagan

ORDER

This petition has been filed seeking to quash the proceedings in D.V.C No.15 of 2017 pending on the file of the Additional Mahila Metropolitan Magistrate, Egmore, Chennai.

2. It is seen from the records that the marriage between the petitioner and the respondent has been dissolved in O.P No.1773 of 2017 by judgment dated 28.02.2018. Thereby the status of the petitioner and the respondent as husband and wife ceased to exist.

3. It is also seen that the respondent has given a complaint against the petitioner and an FIR came to be registered in Crime No.1011 of 2018 before the Royapuram Police Station. This became a subject matter of challenge before this Court. It will be relevant to extract the order passed by this Court on 10.04.2019 hereunder.

"2. It is seen that the de-facto complainant/second respondent is the ex-wife of the petitioner herein. The petitioner already filed a divorce petition in O.P No.1773 of 2017 on the file of the V Additional Family Court, Chennai, in which the petitioner and the de-facto complainant filed a joint compromise memo dated 23.02.2018. Accordingly, the Family Court by an order dated 28.02.2018 in O.P No.1773 of 2017, recorded the joint compromise memo and dissolved the marriage between the petitioner and the de-facto complainant dated 31.10.2008. The relevant portion of the order reads as follows:-

v) The Joint Compromise Memo filed both the parties contains the following terms:-

a) That the respondent shall not claim present or future maintenance from the petitioner.

b) That the respondent shall not claim present or future alimony or property from the petitioner. This is not applicable for children.

c) That the petitioner agrees to withdraw the allegations made against the respondent in O.P No.1773 of 2017.

d) That the respondent has no objections in this Hon'ble Court granting divorce in favour of the petitioner as prayed for.

vi) On the basis of the Joint Compromise Memo and Proof Affidavit filed by the petitioner, the petitioner is entitled to the relief as prayed for. The point is answered accordingly.

In the result, this petition is allowed as per the terms of Joint Compromise Memo and a decree of divorce is passed dissolving the marriage dated 31.10.2008 at Sri Mathuviruchigammal Thirumana Mandapam, Gudalur.

The Joint Compromise Memo filed by the parties shall be treated as part and parcel of the decree. No costs".

3. It is also seen that thereafter the defacto complainant/second respondent lodged complaint as against the petitioner alleging that on 19.06.2018, when the de-facto complainant was proceeding to the Madras High Court, via Suryanarayana Salai, on her motor cycle bearing Registration No.TN01-AB0417, near Esso bus stop, the petitioner and another obstructed her and also scolded with filthy language and threatened with dire consequences.

4. On perusal of records, it shows that on 19.06.2018, the petitioner was in Theni and he was travelling for farm work to Kumily in his vehicle. The learned counsel appearing for the petitioner also produced

CCTV footage of Tamil Nadu check post at Kumily. Showing that the petitioner entered into the check post on 19.06.2018 and came out on 20.06.2018. It is also seen from the records, the dispute between the petitioner and the de-facto complainant, entered into compromise in O.P No.1773 of 2017. Therefore, the present complaint is clear abuse of process of law and it cannot be sustained as against the petitioner. To meet the ends of justice, this Court feels that the FIR cannot be sustained and it is liable to be quashed".

4. Even in the above order, this Court has taken into consideration the fact that the marriage between the petitioner and the respondent has been dissolved by a valid decree passed by the Family Court in O.P No.1773 of 2017, dated 28.02.2018.

5. In view of the above development, no useful purpose will be served in keeping the domestic violence petition pending against the petitioners.

6. Heard the learned counsel for the petitioners and the learned counsel appearing on behalf of the respondent.

7. In view of the above, the proceedings in D.V.C No.15 of 2017 on the file of the Additional Mahila Metropolitan Magistrate, Egmore, Chennai is hereby quashed and accordingly, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

uma

To

The Additional Mahila Metropolitan Magistrate,
Egmore, Chennai.

+1cc to Mr.S.Arivazhagan, Advocate, S.R.No.56993
+1cc to Mr.Praveen Alexander, Advocate, S.R.No.57536

CRL.O.P No.7527 of 2017
and
Crl.M.P No.5444 of 2017

SJ(CO)
CS/10/07/2019