

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.15767 of 2017

and

Crl.M.P.Nos.9820 & 9821 of 2017

and 10529 of 2018

1.Nisar Ahamad

2.Jaleela Begam

3.Barisha Begam

4.Shadulla

5.Shameemabanu

... Petitioners

Vs.

Jeenath Nisha

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to D.V.O.P.No.30 of 2017 on the file of Additional Mahila Court (Magisterial Level), Salem and to quash the same and to allow the above Criminal Original Petition.

For Petitioners: Mr.C.Prabakaran

For Respondent : ***Mr.S.Balaji**

ORDER

This petition has been filed to call for the records relating to D.V.O.P.No.30 of 2017 on the file of Additional Mahila Court (Magisterial Level), Salem and to quash the same and to allow the above Criminal Original Petition.

2. The petitioners are the husband and in-laws of the respondent and the marriage between A1/Nisar Ahamad and the respondent Viz.,Jeenath Nisha was solemnized on 17.11.2013.

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 D.V.O.P.No.30 of 2017 on the file of the learned Additional Mahila Court (Magistrate level), Salem and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.O.P.30 of 2017 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 D.V.O.P.No.30 of 2017.

3. Heard Mr.C.Prabakaran, the learned counsel for the petitioners and ***Mr.S.Balaji**, the 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, who is already a party in that case. Petitioners 2 to 5 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 petitioners 2 to 5/ in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by petitioners 2 to 5 /in-laws 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 petitioners 2 to 5 / in-laws. In the absence of the same, the proceedings as against petitioners 2 to 5/in-laws cannot be maintained and consequently, petitioners 2 to 5 / in-laws 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 DVOP.No.30 of 2017, on the file of the learned Additional Mahila Court (Magistrate Level), Salem insofar as petitioners 2 to 5 are concerned. Insofar as the first petitioner /husband of the respondent is concerned, since the impugned proceedings in DVOP.No.30 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 six 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.

6. With the above direction, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

pds/lok

Sd/-
Assistant Registrar(CS VI)
Dated: 14/03/2019

***Corrected as per Letter dated 02/07/2019
in CRL.OP.No. 15767/2017**

**Sd/- Assistant Registrar (CS VI)
Dated: 09/07/2019**

//True Copy//

Sub Assistant Registrar

To

The learned Additional Mahila Court,
(Magisterial Level), Salem.

**To be Substituted to the
Order already despatched
On 26/04/2019**

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.13020/19

+1cc to Mr.S.Balaji, Advocate, S.R.No.12481/19

Crl.O.P.No.15767 of 2017
and

Crl.M.P.Nos.9820 & 9821 of 2017
and 10529 of 2018

Kak(23/03/2019)

GN(16/07/2019)

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