

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:26.03.2019

CORAM:

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

CRL.O.P.No.25713 of 2017
and Crl.M.P.No.14815 of 2017

1.Mr.N.Vasantha Kumar,

2.Mrs.Rukumani.

...Petitioners

Vs.

Mrs.P.Saranya Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records and quash the complaint against the petitioners in D.V.C.No.10 of 2017 now pending before the learned Judicial Magistrate No.II at Gobichettipalayam.

For Petitioners : Mr.M.Venkadesh Kumar

For Respondent : Mr.S.Parthasarathy

O R D E R

This Criminal Original Petition has been filed seeking to quash the D.V.C.No.10 of 2017, filed by the respondent, pending before the learned Judicial Magistrate No.II, Gobichettipalayam.

2.The marriage between A1/N.V.Rajesh and the respondent Viz.,P.Saranya was solemnized on 19.06.2013. It is alleged that the husband/A1 tortured the respondent and demanded more dowry from the respondent's family frequently. Unable to bear the torture, the respondent filed a complaint before the Protection Officer in D.V.C.No.10 of 2017 before the learned Judicial Magistrate No.II, Gobichettipalayam, and the case is pending for trial.

3.It is seen that the petitioners herein are the brother-in-law, and his wife are added as parties in the D.V.C petition and seeks to take action against them under Domestic Violence Act. The said D.V.A. No.10 of 2017 on the file of the Judicial Magistrate No.II, Gobichettipalayam is pending for trial. At this stage, the petitioners herein who are in-laws of the

respondent prays to quash the proceedings in D.V.A.No.10 of 2017.

4.Heard the learned counsel for the petitioners and the learned counsel appearing for the respondent.

5.It is seen that the relief sought for in the domestic violence case with regard to residential rights, compensation can be made and claimed only against her husband, who is already a party in that case. The petitioners herein were only the in-laws of the respondent and they were living separately. As such, the protection order sought for by the respondent in the domestic violence case against these petitioners/in-laws, based on the allegations, cannot be maintained in view of the fact that there are no specific allegations as against these petitioners. While that being so, there cannot be any act of domestic violence as defined under Domestic Violence Act against these petitioners. In the absence of the same, the proceedings as against these petitioners cannot be maintained and consequently, the petitioners need not undergo the ordeal of facing a criminal trial.

6.In the result, this Criminal Original Petition stands allowed. Consequently, the proceedings in DVA.No.10 of 2017, on the file of the Judicial Magistrate Court No.II, Gobichettipalayam, insofar as these petitioners are concerned, is quashed on condition that, they shall ensure that the husband/A1 shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of D.V.C.No.10 of 2017 on the file of the Judicial Magistrate No.II, Gobichettipalayam, from April 2017 onwards, as ad-interim maintenance, without prejudice to both the parties. On such deposit being made, the respondent is entitled to withdraw the same. Connected miscellaneous petitions are also closed.

7.Since the impugned proceedings in DVA.No.10 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 three months from the date of receipt of copy of this order.

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Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Judicial Magistrate No.II,
Gobichettipalayam.

+1cc to Mr.M.Venkadesh Kumar, Advocate, S.R.No.28754

CRL.O.P.No.25713 of 2017
and CrI.M.P.No.14815 of 2017

PMS (CO)

RRS (11/04/2019)



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