

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2019

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Crl.O.P. No.25758 of 2017

and

Crl.M.P. Nos.14839 & 14840 of 2017

Sadhasivam ... Petitioner

Vs.

Priya ... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to D.V.C. No.2 of 2017 on the file of the Judicial Magistrate Court No.II, Erode and quash the same.

For Petitioner : Mr.V.Balamurugan

For Respondent : Mr.C.Sivanesan

O R D E R

The petitioner herein, who is the maternal uncle of the husband of the respondent herein has filed the present criminal original petition, challenging the complaint filed under the provisions of the Protection of Women from Domestic Violence Act, 2005 ('Domestic Violence Act' for brevity), insofar as he and his relatives are concerned.

2.The reliefs sought for by the respondent herein in the Domestic Violence case are under Sections 17, 18 and 20 of the Domestic Violence Act for the right to share household, protection orders and monetary reliefs. The averments in the complaint in the Domestic Violence case are predominantly as against the respondent's husband and other respondents. Insofar as the petitioner herein is concerned, who is the 7th respondent in the Domestic Violence case, it is stated that he is a permanent resident of Erode District, who has never lived in the matrimonial house of the respondent. The overt act attributed is that he had made verbal abuses. Insofar as the reliefs sought for in the Domestic Violence case are concerned, apart from the protection under Section 18 of the Domestic Violence Act, the other protections under

Sections 17 and 20 of the Act may not be maintained as against the petitioner herein.

3. Insofar as the protection order sought against this petitioner under Section 18 of the Act is concerned, the averments, having been jointly made, are predominantly against the respondents 2, 3, 4 and 5 along with the petitioner herein in the Domestic Violence case. A mere and solitary statement by one of the relatives of the husband that she must behave properly cannot be termed to be an act of Domestic Violence amounting to verbal and emotional abuse as defined under Section 3 of the Domestic Violence Act, which requires orders of protection under Section 18 of the Domestic Violence Act. Possibly, the respondent herein could maintain the Domestic Violence case as against her husband and if established, against other respondents also. But insofar as the implication of the petitioner herein/7th respondent is concerned, this Court is of the affirmed view that the averments may not amount to acts of Domestic Violence as defined under Section 3 of the Domestic Violence Act and as such, the relief of protection order under Section 18 of the Act may not be maintained as against this petitioner. In view of this finding, no purpose whatsoever will be served by making the petitioner to undergo the ordeal of trial.

4. Accordingly, the proceedings in D.V.C. No.2 of 2017 on the file of the Judicial Magistrate Court No.II, Erode, stands quashed, insofar as the petitioner herein/7th respondent in the Domestic Violence case is concerned and accordingly, this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

5. It is needless to point out that the Judicial Magistrate Court No.II, Erode, is at liberty to proceed with the Domestic Violence case insofar as the other respondents therein are concerned.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mkkn

To

The Judicial Magistrate No.II, Erode.

+1cc to Mr.V.Balamurugan , Advocate SR.No. 82007

+1cc to Mr.M.Basakaran , Advocate SR.No. 81670

CrI.O.P. No.25758 of 2017

A.SK(17/10/2019)