

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.Nos.18159 & 16562 of 2017
and
Crl.M.P.Nos.10188 & 10189 of 2017

Tr.A.R.Salaudeen Abdul Rajack

... Petitioner in Crl.O.P.No.18159 of 2017

1.A.R.Hyrun Beevi

2.A.R.Mariyambeevi

3.A.R.Sarambeevi

4.A.R.Najirabeevi

5.A.R.Rakela Beevi

6.A.R.Habiba Beevi

7.A.R.Thahira Beevi

8.P.Mohamed Yusuf

... Petitioners in
Crl.O.P.No.16562 of 2017

Vs.

S.Thaslima Parveen

... Respondent in both Crl.O.Ps

Common Prayer : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in D.V.A.No.3 of 2017 on the file of the District Munsif Cum Judicial Magistrate, Neyveli and quash the same.

For Petitioner
in both Crl.O.Ps : Mr.V.V.Sairam

For Respondent
in both Crl.O.Ps : Mr.P.Kumaresan
for S.Thiruvengadam

C O M M O N O R D E R

The prayer sought for in the present Criminal Original Petitions to call for the records in D.V.A.No.3 of 2017 on the file of the District Munsif Cum Judicial Magistrate, Neyveli and quash the same.

2. The petitioner in Crl.O.P.No.18159 of 2017 is the husband of the respondent and the petitioners in Crl.O.P.No.16562 of 2017 are the in-laws of the respondent and the marriage between Al/Tr.A.R.Saludeen Abdul Rajack and the respondent Viz., S.Thaslima Parveen was solemnized on 19.04.2015. 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.A. No.3 of 2017 on the file of the District Munsif Judicial Magistrate Court, Neyveli, and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.A.No.3 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.A.No.3 of 2017.

3. Heard Mr.V.V.Sairam, learned counsel appearing for the petitioner and Mr.P.Kumaresan, 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. The petitioners 1 to 8 herein in Crl.O.P.No.16562 of 2017 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 in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners in Crl.O.P.No.16562 of 2017 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 in Crl.O.P.No.16562 of 2017. In the absence of the same, the proceedings as against petitioners in Crl.O.P.No.16562 of 2017 cannot be maintained and consequently, the petitioners in Crl.O.P.No.16562 of 2017 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 D.V.A.No.3 of 2017, on the file of the Learned District Munsif Cum Judicial Magistrate, Neyveli insofar as petitioners in Crl.O.P.No.16562 of 2017 are concerned, on

condition that, they shall ensure that the A1/husband of the respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) per month before 5th of every English Calendar month to the credit of D.V.A.No.3 of 2017, on the file of the Learned District Munsif Cum Judicial Magistrate, Neyveli, as ad-interim maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the respondent is entitled to withdraw the same.

6. Insofar as A1/husband of the respondent is concerned, since the impugned proceedings in D.V.A.No.3 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. A1/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, the Crl.O.P.No.16562 of 2017 stands disposed of and Crl.O.P.No.18159 of 2017 stands dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

dh

To

1.The learned District Munsif Cum
Judicial Magistrate, Neyveli.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.V.Sairam, Advocate, S.R.No. 19846

Crl.O.P.No.16562 of 2017
and

Crl.M.P.Nos.10188 & 10189 of 2017

PM(CO)
GN(03/05/2019)