

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2019

CORAM:

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

CRL.O.P.No.17807 of 2017
and CRL.M.P.Nos. 10877 of 2017 and 9881 of 2018

1.Tasleem Fathima
2.Afsal

... Petitioners/A4 & 5

Vs.

Tasleem Fathiam

...Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records relating to D.V.A.No.17 of 2015 on the file of the Judicial Magistrate Court No.V, Coimbatore and quash the same.

For Petitioners : Mr.C.Prabakaran
For Respondent : Mr.C.D.Sugumar

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in D.V.A.No.17 of 2015, filed by the respondent herein, pending on the file of the learned Judicial Magistrate-V, Coimbatore.

2. The petitioners are the sister-in-law and brother-in-law of the respondent and the marriage between Al/Tariq and the respondent Viz., Tasleem Fathima was solemnized on 06.10.2013. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home. Under these circumstances, the respondent herein filed a petition under Domestic Violence Act in D.V.A. No.17 of 2015 on the file of the learned Judicial Magistrate No.V, Coimbatore, and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.A.17 of 2015 is pending for trial. At this stage, the petitioners herein who are the in-laws of the respondent pray to quash the proceedings in D.V.A.No.17 of 2015.

3. Heard Mr.C.Prabakaran, learned counsel for the petitioners and Mr.C.D.Sugumar, 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 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 these petitioners/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 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 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.

5. In view of the above, this Court is inclined to quash the proceedings in D.V.A.No.17 of 2015, on the file of the learned Judicial Magistrate -V, Coimbatore, insofar as these petitioners 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) before 5th of every English Calendar month to the credit of D.V.A.No.17 of 2015, on the file of the learned Judicial Magistrate-V, Coimbatore, 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.17 of 2015 is pending from the year 2015 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, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

msm

To

1. The Judicial Magistrate - V, Coimbatore.
2. The Public Prosecutor, High Court, Madras.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.38354

CRL.O.P.No.17807 of 2017

RK (CO)
CS/13/06/2019



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