

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.27964 of 2017

and

Crl.M.P.Nos.15908 & 15909 of 2017

1.A.Rajakannan

2.Maheswari

....Petitioners/Accused 3 & 4

Vs.

Soundharya

....Respondent/Complainant

PRAYER:This Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to the complaint in D.V.A. No. 29 of 2016 pending on the file of the learned Judicial Magistrate No.II Coimbatore, and quash the same by allowing this Criminal Original Petition.

For Petitioners : Mr.N.Ponraj

For Respondent : Notice awaited no appearance

ORDER

This petition has been filed to quash the proceedings in D.V.A.No.29 of 2016, filed by the respondent herein, pending on the file of the learned Judicial Magistrate No.II Coimbatore,

2.The petitioners are the in-laws of the respondent and the marriage between 1st petitioner's son Surendhiran and the respondent Viz., Soundharya was solemnized on 27.08.2014. 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.29 of 2016 on the file of the learned Judicial Magistrate No.II Coimbatore, and implicated the petitioners and her husband as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.A.No.29 of 2016 is pending for trial. At this stage, the petitioners herein who is the in-laws of the respondent prays to quash the proceedings in D.V.A.No.29 of 2016.

3. Heard Mr.N.Ponraj learned counsel for the petitioners and the notice served to the respondent, no one appeared.

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 is only in-laws of the respondent. As such, the protection order sought for by the respondent herein in the domestic violence case against the 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 petitioners. In the absence of the same, the proceedings as against petitioners cannot be maintained and consequently, 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 DVA.No.29 of 2016, on the file of the learned Judicial Magistrate-II, Coimbatore, insofar as petitioners are allowed, on condition that, she shall ensure that the Al/husband of the respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) per month on or before 5th of every English Calendar month to the credit of DVA.No.29 of 2016, on the file of the learned Judicial Magistrate-II, 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 the first petitioner's son Al/husband of the respondent is concerned, since the impugned proceedings in DVA.No.29 of 2016 is pending from the year 2016 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. Al/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(J)

//True Copy//
Sub Assistant Registrar

mpa

To

The Judicial Magistrate-II,
Coimbatore.

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and

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MR(CO)
CSL/13.05.2019



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