IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2019

CORAM:

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

CRL.O.P.No.22899 of 2018
and CRL.M.P.Nos.12802 & 12803 of 2018

1.Pachiappan
2.Valmuni
3.Murugammal ... Petitioners

Vs.

S.Devi ...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pursuant to D.V.C.No.260 of 2016 on the file of the learned Metropolitan Magistrate, Additional Mahila Court, Allikulam, Chennai and quash the same.

For Petitioners: Mr.S.Sivakumar

For Respondent : Mr.B.Suresh Singh

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.260 of 2016, filed by the respondent herein, pending on the file of the learned Metropolitan Magistrate, Additional Mahila Court, Allikulam, Chennai.

2. The petitioners are in-laws of the respondent and the marriage between A1/Senthilkumar and the respondent Viz.,Devi was solemnized on 20.08.2004. 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.C.No.260 of 2016 on the file of the learned Metropolitan Magistrate, Additional Mahila Court, Allikulam, Chennai and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.260 of 2016 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.C.No.260 of 2016.

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3. Heard Mr.S.Sivakumar, learned counsel appearing for the petitioners and Mr.B.Suresh Singh, 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.C.No.260 of 2016 on the file of the learned Metropolitan Magistrate, Additional Mahila Court, Allikulam, Chennai, 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.C.No.260 of 2016 on the file of the learned Metropolitan Magistrate, Additional Mahila Court, Allikulam, Chennai, as ad-interim maintenance, without prejudice to both the parties, failing which this order shall sand 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.C.No.260 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. 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.

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7. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

rts

To

The Metropolitan Magistrate Court,
Additional Mahila Court,
Allikulam, Chennai

+1cc to Mr.S.Sivakumar, Advocate SR.No.29477

+2cc to Mr.B.Suresh Singh, Advocate SR.No.29101

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