



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE. N.SESHASAYEE

Crl.O.P.[MD].No.2467 of 2019

and

Crl.M.P.[MD].No.1342 and 1343 of 2019

1.J.Vetrivel
2.R.Jayaraj
3.J.Nagamani
4.J.Karthikeyan
5.K.Saranya

: Petitioners / Respondents

/Vs./

D.Mahalakshmi

: Respondent / Petitioner

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in D.V.C.No.02 of 2018 pending on the file of the Judicial Magistrate No.I, Virudhunagar and to quash the same.

For Petitioners : Mr.R.Amardeep
For Respondent : Mr.Haja Mohideen

ORDER

The present petition is filed to quash D.V.C.No.2 of 2018 pending on the file of the learned Judicial Magistrate No.I, Virudhunagar, at the instance of the respondent herein.

2. Mr.Haja Mohideen, learned counsel entered appearance for the respondent and this Court heard in detail.

3. Summons have been issued by the concerned Judicial Magistrate to all the petitioners herein shown as the respondents 1 to 5 by the trial Court. Of the petitioners, the first petitioner is the husband of the respondent. The petitioners 2 and 3 are her parents-in-law. The fourth respondent is her brother-in-law (brother of her husband) and the fifth respondent is the wife of the fourth respondent. Marriage between the first petitioner and the respondent for all practical purposes appears to be a non-starter, their matrimony appeared to have lived for a bare three months. But, no sooner, she had made a first complaint on 02.02.2018 to the protection officer under the Protection of Women from the Domestic Violence Act. A copy of the complaint is made available and it keeps allegations of certain inhuman and unnatural acts against the first petitioner. Except a stray sentence tagging the petitioners 2 to 5, entire allegation is focused only on the first petitioner / husband about his alleged irresponsibility, cruelty and what the petitioner perceives as acts of indecency.



4. In the course of hearing, a report of the Social Welfare Officer has also been made available and ultimately, the matter was laid before the learned Magistrate and he has taken up the matter in D.V.C.No.2 of 2018 and issued summons under Section 22 of the Protection of Women from Domestic Violence Act, 2005 [hereinafter referred to as "the Act"]. Section 22 of the Act in essence provided for payment of compensation for the injury caused to the respondent, if the entire allegation levelled in the complaint is carefully scanned. The allegation against the first petitioner stands out and if at all any, he would be liable under Section 22 of the Act. However, there is nothing in the complaint to tag the petitioners 2 to 5 for granting remedy to the respondent within the meaning of Section 22 of the Act.

5. This Court therefore quashes D.V.CNo.2 of 2018 only as concerning the petitioners 2 to 5 and chooses to dismiss it as concerning the first petitioner / husband of the respondent. Since the respondent is seen to be in agony, ever since she preferred the first complaint on 02.02.2018, the trial Court is directed to expedite entire process of trial.

6. In the meantime, the learned counsel appearing for the petitioners submitted that the first petitioner is too anxious to take his wife back and the trial Court also may endeavour to expose the possibilities of an amicable settlement between the spouses in discordance.

7. To prove his bonafide, the first petitioner offered to pay a sum of Rs.25,000/- [Rupees Twenty Five Thousand only] before the Court towards the interim maintenance, for which, the respondent application is pending before the concerned Court. The Court may take a decision in that application and make such order as to the disbursement of the amount to be deposited by the first petitioner within a period of four weeks from the date of receipt of a copy of this order.

8. Nothing herein stated should affect the rights of the first petitioner to challenge the allegation levelled against him by the complainant. Accordingly, this petition is disposed of. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)



The Judicial Magistrate No.I, Virudhunagar.

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+1CC TO MR.A.HAJA MOHIDEEN, Advocate Sr. No.48190

+1CC TO MR.I.SUTHAKARAN, Advocate Sr. No. 48238

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TR (28.03.2019) 3P 4C