



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2019

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRL.O.P.(MD)No. 1252 of 2016

1. D. Sivasubramanian
2. S. Ilanjeran
3. I. Thangamalar
4. . Gokulakrishnan
5. N. Subash Chanraboss
6. S. Thangammal

... Petitioners/Respondents-2 to 7

Vs.

Sri Devi

... Respondent/Complainant

PRAYER : Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the private complaint in C.M.P. No.6451 of 2015 dated 04.12.2015 filed under Section 12 of Protection of Women from Domestic Violence Act, 2005, on the file of the learned Judicial Magistrate-III, Nagercoil, Kanyakumari District and quash the same.

For Petitioners

: Mr.T. Lajapathi Roy

ORDER

This Criminal Original Petition has been filed by the petitioners/respondent Nos.2 to 7, to quash the complaint pending against them in C.M.P. No.6451 of 2015 dated 04.12.2015 filed under Section 12 of Protection of Women from Domestic Violence Act, 2005.

2. The respondent herein has filed a complaint as against the petitioners and others, for the relief under Sections 12 read with 19(2), 20 and 22 of the Protection of Women from Domestic Violence Act, 2005.

3. The petitioners had filed this petition on the ground that they are living separately and they have no domestic relationship with the respondent/complainant, and the relief sought for by the respondent in C.M.P. No.6451 of 2015 cannot be sustained as against them. In support of their contention, the learned counsel relied upon Section 2(f) of the Protection of Women from Domestic Violence Act, 2005 which reads as follows:

"Domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption, or are family members living



together as joint family".

4. Be that as it may, perusal of the complaint discloses certain averments as against this petitioners also. When there are specific averments available in the complaint, it would not be proper to quash the proceedings *in limine* without trial. However, the petitioners are liberty to raise all those grounds raised in this petition before the Trial Court.

5. Accordingly, the petition is dismissed with liberty to raise all those grounds raised in this petition before the trial Court.

6. At this juncture, the learned counsel for the petitioners sought indulgence of this Court to consider dispensing with the personal appearance of the petitioners-1 to 5 before the trial Court. According to the learned counsel for the petitioner, they are aged about 65 years at the time of filing the complaint and they are also suffering with several ailments. Considering the age of the petitioners-1 to 5, the personal appearance of the petitioners-1 to 5 alone are dispensed with before the Trial Court provided they file an affidavit of undertaking before the trial Court that they will not dispute their identity during the trial and they shall appear before the trial Court as and when their presence is required by the trial Court.

6. With the above directions, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar (CS)

ksa

To

1. The Judicial Magistrate-III,
Nagercoil,
Kanyakumari District.

2. The Chief Judicial Magistrate,
Kanyakumari District.

3. The Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC TO MR.T.LAJAPATHI ROY, Advocate Sr. No. 52105