



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.09.2019**

CORAM:

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

CRL.O.P (MD) No. 117 of 2019

and CRL.M.P (MD) Nos. 32 & 33 of 2019

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1. Nurjahan
2. Sheik Niyas
3. Mariyam Beevi
4. Sahul Hameed
5. Jasmin
6. Sahul Hameed
7. S. Abdul Masjithi

... Petitioners/Respondents

Vs.

1. A. Ajeesha Begam
2. Habeeb Aafrin
3. Harrish Arsath

...Respondents/Complainant

(2nd and 3rd respondents are Minors and represented by the first respondent mother).

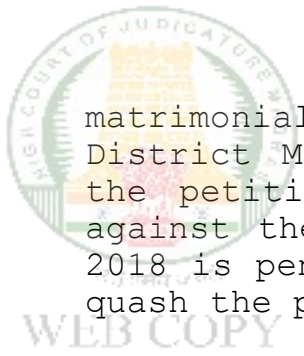
PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to DVOP No.25 of 2018 on the file of the learned District Munsif cum Judicial Magistrate, Karaikudi and to quash the same as illegal insofar as the petitioners are concerned.

For Petitioners : Mr.K.K. Samy
For Respondent-1 : Mr. V. Karuna

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in DVOP No. 25 of 2018, filed by the respondent herein, pending on the file of the learned District Munsif-Cum-Judicial Magistrate, Karaikudi.

2. The marriage between **Abdul Hameed** and the first respondent/**A. Ajeesha Begam** was solemnized on **22.06.2003** and he went to Qatar Country for Job. The first petitioner is elder sister, the third petitioner is aunty, the fifth petitioner is sister-in-law of of the Abdul Hameed and the second petitioner is the son of the first petitioner and he is college going student, the fourth petitioner is the husband of the third petitioner and the sixth petitioner is the only known person of Abdul Hameed. Thereafter, due to matrimonial disputes the first respondent and her husband were living separately from the matrimonial home. Under this circumstances, the respondent herein filed a petition under



matrimonial case in DVOP No. 25 of 2018 on the file of the learned District Munsif Cum Judicial Magistrate, Karaikudi and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said DVOP No. 25 of 2018 is pending for trial. At this stage, the petitioners pray to quash the proceedings in DVOP No.25 of 2018.

3.Perused the material documents available on record.

4.It is seen that the relief sought for by the respondents in the domestic violence case with regard to residential rights, compensation, etc., can be made and claimed as against the first respondent's husband, who is already a party in that case. The petitioners herein are only in-laws and relations of the respondent and they are living separately. As such, the protection order sought for by the first respondent herein in the domestic violence case against the petitioners, 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 the petitioners. In the absence of the same, the proceedings as against the 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 DVOP No.25 of 2018, on the file of the learned District Munsif Cum Judicial Magistrate, Karaikudi, insofar as the petitioners 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 DVOP No.25 of 2018, on the file of the learned District Munsif-Cum-Judicial Magistrate, Karaikudi, as *ad-interim* maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the first respondent is entitled to withdraw the same.

6. In view of the above, this Court is inclined to quash the proceedings in DVOP No.25 of 2018, on the file of the learned District Munsif Cum Judicial Magistrate, Karaikudi, insofar as these petitioners are concerned. Since the impugned proceedings in DVOP No. 25 of 2018 is pending from the year 2018 onwards, it would be appropriate to direct the trial Court to complete the trial within a period of **Three (3)** 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.

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Sd/-

Assistant Registrar (P AND A)

// True Copy //

Sub Assistant Registrar(CS)

ksa

To
The District Munsif Cum Judicial Magistrate,
Karaikudi.

+1 CC to M/s.K.K. SAMY, Advocate (SR-87128[F] dated 17/09/2019)

+1 CC to M/s.V.KARUNA, Advocate (SR-87412[F] dated 18/09/2019)

+1 CC to M/s.V.KARUNA, Advocate (SR-86986[F] dated 17/09/2019)

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KK/SAR/15.10.2019/3P-5C/