



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2019

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CrI.O.P. (MD)No.2951 of 2016

and

CrI.M.P. (MD)No.1456 of 2016

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1.Alamelu
2.Muthukumar
3.Unnamalai

...Petitioners/Respondents 2 to 4

Vs.

1.Unnamalai

2.Minor Somasundaram

(Rep. by his mother and natural guardian 1st respondent Unnamalai)

...Respondents/Complainants

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to M.C.No.2 of 2016, pending on the file of the learned Judicial Magistrate No.II, Thanjavur and quash the proceedings as against the petitioners herein.

For Petitioners : Mr.D.Rameshkumar

For Respondents : Mr.P.Senthil

O R D E R

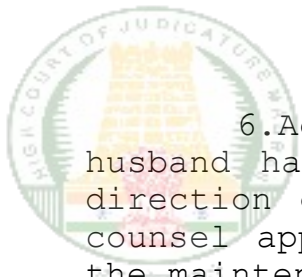
This petition is filed by the petitioners to quash the proceedings in M.C.No.2 of 2016, on the file of the learned Judicial Magistrate No.II, Thanjavur.

2.The respondents herein filed M.C.No.2 of 2016 for the relief of maintenance and other reliefs under Sections 12, 17,18, 19, 20 and 21 of Protection of Women from Domestic Violence Act, 2005.

3.The petitioners herein filed this criminal original petition on the ground that they have never shared the household with the respondents and therefore, the proceedings as against them have to be quashed.

4.The learned counsel appearing for the petitioners contended that the learned Judicial Magistrate has proceeded with the complaint without obtaining the report as required under Rule 5 of the Protection of Women from Domestic Violence Rules, 2006.

5.This Court while entertaining this petition, by an order dated 18.02.2016 dispensed the petitioners' appearance before the Trial Court on condition that the first respondent/husband in M.C.No.2 of 2016 should deposit a sum of Rs.5,000/- to the credit of M.C.No.2 of 2016, on the file of the learned Judicial Magistrate No.II, Thanjavur.



6. According to the learned counsel for the petitioners, the husband has been depositing the maintenance till date as per the direction of this Court but that has been objected by the learned counsel appearing for the respondents that for the last six months the maintenance amount has not been deposited.

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7. Regarding the averment in the complaint as against the petitioners are concerned, the third petitioner along with the other petitioners had locked the portion, where the defacto complainant is living in the matrimonial home and had driven her out. But there is no specific date is mentioned in the complaint with regard to that averment.

8. The learned counsel for the petitioners would submit that third petitioner is married to one Krishnan, who is the brother of the first respondent in M.C.No.2 of 2016 and therefore, she is residing with her husband and she never shared household of the first respondent in M.C.No.2 of 2016 and the third petitioner is falsely roped in the complaint.

9. Considering facts and circumstances of the case and the averment in the complaint that the third petitioner is married and residing with her husband and in the absence of the specific date on which the third petitioner had locked the portion of the defacto complainant and driven her out, this Court is inclined to allow this petition insofar as the third petitioner alone. However, there are specific allegations against the first and second petitioners in the complaint.

10. Accordingly, this Criminal Original Petition is allowed insofar as third petitioner is concerned and dismissed insofar as first and second petitioners are concerned. Considering the age of the petitioners, this Court is inclined to issue a direction to the Trial Court to complete the trial within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To:

Judicial Magistrate No.II, Thanjavur.

1 CC to Mr.M.P.SENTHIL, Advocate SR-58045.

Cr1.O.P. (MD) No.2951 of 2016