

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 05.09.2019

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**CRL.O.P.(MD).No. 8211 of 2019and CRL.M.P.(MD).Nos.5107 & 5108 of 2019

WEB COPY

1.S.Kalavathi

2.Janakiraman

3.Sundari@Lakshmi

... Petitioners/Respondents 2,3 & 4

Vs.

R.Dhivya @ Sankari

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in Crl.M.P.No.1 of 2019 on the file of the learned Judicial Magistrate No.I, Kumbakonam and quash the same.

For Petitioners : Mr.B.Nambi Selvan

For Respondent : Mr.A.Saravanan

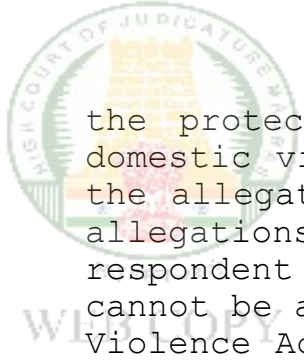
O R D E R

This Criminal Original Petition has been filed to call for the records in Crl.M.P.No.1 of 2019 on the file of the learned Judicial Magistrate No.I, Kumbakonam and quash the same.

2.The petitioners are in-laws of the respondent and the marriage between first petitioner's Son namely, Balaji @ Santhana Gopalakrishnan and the respondent Viz.,R.Dhivya @ Sankari was solemnized on 14.06.2017. 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 complaint before the learned Judicial Magistrate No.I, Kumbakonam under Section 9(b) and 37(2)(c) r/w Under Rule 5(1) & 5(2) & 17(3) of the Protection of Women from Domestic Violence Act, 2005 and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. At this stage, the petitioners herein who are the in-laws of the respondent pray to quash the complaint in Crl.M.P.No.1 of 2019.

3. Heard the learned counsel for the petitioners and the learned counsel for the respondent and perused the materials available on record.

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 Crl.M.P.No.1 of 2019, on the file of the Judicial Magistrate Court No.I, Kumbakonam, insofar as these petitioners are concerned, on condition that, they shall ensure that the 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 Crl.M.P(MD).No.1 of 2019 on the file of the Judicial Magistrate Court No.I, Kumbakonam, as *ad-interim* maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the respondent is entitled to withdraw the same.

6. Insofar as husband of the respondent is concerned, since the impugned proceedings in Crl.M.P.No.1 of 2019 is of the year 2019, 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. The 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.

Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar(CS)

To

The Judicial Magistrate No.I, Kumbakonam.

+1 CC to Mr.A. SARAVANAN, Advocate SR-85364.

+1 CC to Mr.B.NAMBI SELVAN, Advocate SR-85491.

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