



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) No. 9970 of 2019

and

Cr1.M.P. (MD) No. 6297 of 2019

WEB COPY

1. Dr.C.Arun Kumar
2. Mr.P. Chandran
3. C. Sankari

... Petitioners/Respondent

Vs

B.Sandhya

... Respondent/Petitioner

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to quash the complaint filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 and the order in taking cognizance with respect to the DVC No. 5 of 2019, pending on the file of the Judicial Magistrate No.IV, Tirunelveli .

For Petitioners	:	Mr.V.Jayachandran
For Respondent	:	Mr.T.Lajapathi Roy

O R D E R

This petition has been filed to quash the proceedings in DVC No.5 of 2019, on the file of the learned Judicial Magistrate No.IV, Tirunelveli, for an alleged offence under Section 12 of the Protection of Women from Domestic Violence Act, 2005.

2. The marriage between **first petitioner/C. Arunkumar** and the respondent/**B. Sandhya** was solemnized on **27.05.2018**. The first petitioner is the husband and the petitioners-2 & 3 are in-laws of the respondent. 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 DVC No. 5 of 2019 on the file of the learned Judicial Magistrate No.IV, Tirunelveli and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said DVOP No. 5 of 2019 is pending for trial. At this stage, the petitioners pray to quash the proceedings in DVC No. 5 of 2019.

3. Perused the material documents 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 the first

respondent/husband, who is already a party in that case. The petitioners-2 & 3 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 the petitioners-2 & 3/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 the petitioners-2 & 3. In the absence of the same, the proceedings as against the petitioners-2 & 3 cannot be maintained and consequently, the petitioners-2 & 3 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 DVC No. 5 of 2019, on the file of the learned Judicial Magistrate No.IV, Tirunelveli insofar as the petitioners-2 & 3 are concerned, on condition that, they shall ensure that the first petitioner/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 DVC NO. 5 of 2019, on the file of the learned Judicial Magistrate No.IV, Tirunelveli, 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 first petitioner/husband of the respondent is concerned the Criminal Original Petition is dismissed. However, the trial Court is directed to complete the trial within a period of **Six (6) months** from the date of receipt of copy of this order. First petitioner/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 is partly allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

The Judicial Magistrate No.IV,
Tirunelveli.

+1 CC to Mr.T.LAJAPATHI ROY, Advocate (SR-103059[F] dated
02/12/2019)

+1 CC to Mr.V. JAYACHANDRAN, Advocate (SR-102164[F] dated
28/11/2019)

Order made in
CRL.O.P (MD) No.9970 of 2019
28.11.2019

VB(27.01.2020) 3P 4C