



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.03.2019**

CORAM:

THE HONOURABLE MR.JUSTICE **N.SESHASAYEE**

Crl.O.P.[MD].No.22079 of 2018

and

Crl.M.P.(MD)No.10269 of 2018 & 1747 of 2019

1.M.Saravanakumar

2.M.Poongothai

: Petitioners/Accused

Vs.

K.Kavitha

: Respondent/Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for records pertaining to the D.V.P.No.46 of 2017 pending on the file of learned Judicial Magistrate No.I, Karur, Karur District and quash the same.

For Petitioners : Mr.A.D.Ganeshamoorthi

For Respondent : Mr.D.Mathiyalagan

O R D E R

The present petition is filed seeking to quash D.V.P.No.46 of 2017 pending on the file of learned Judicial Magistrate No.I, Karur, Karur District.

2.The learned counsel for the petitioners submitted that the marriage between the first petitioner and the respondent was solemnized in the year 2001 and out of the wedlock, they have three children and the first petitioner is holding a respectable position in certain University; that the respondent has been quarrelsome and has filed the D.V.P. making false accusation. He also added, for something that was happened in the year 2001, the respondent has prepared a complaint in the year 2017.

3.The learned counsel for the respondent submitted that the respondent has sought protection order and for return of jewels and other Shridhana properties from the first petitioner/ husband of the respondent also for custody of the children.

4.Heard the learned counsel for the petitioners and the learned counsel for the respondent.

5. The cause of action for filing D.V.P. came only in the year 2017, when according to the respondent she had thrown out of the house. It is in these circumstances, this Criminal Original



Petition has come up before this Court.

6. On carefully going through the allegation made in the several paragraphs of the copy of the petition now pending trial in D.V.P.No.46 of 2016, this Court finds very strong accusation levelled against the first petitioner. There may be some merit in some of the aspects which the learned counsel for the petitioners have raised to show that the entire allegations are false and the petition itself is a motivated one.

7. However, these are all aspects that had to be tested during the trial, and this Court cannot presume their veracity. Turning to the second petitioner, except in the concluding paragraph, there is no specific allegation against the second petitioner.

8. The nature of relief is attracted only to the first petitioner and not the second petitioner and necessarily the D.V.P. has to be quashed as regards the second petitioner.

9. In so far as the first petitioner is concerned, he has to face the trial, as this Court finds that the petition pending before the Magistrate makes specific accusation of holding against the first petitioner.

10. Therefore, this Criminal Original Petition is partly allowed and D.V.P.No.46 of 2017, pending on the file of learned Judicial Magistrate No.I, Karur, Karur, is hereby quashed as far as the second petitioner is concerned. The learned Judicial Magistrate No.I, Karur, Karur, is directed to dispose of D.V.P.No.46 of 2017 within a period of four months from today. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Judicial Magistrate No.I
Karur.

2. The Chief Judicial Magistrate,
<https://hcservices.ecourts.gov.in/hcservices/>
Karur.



+1 CC to M/s.R.MATHIYALAGAN, Advocate (SR-51503[F] dated 04/03/2019)

+1 CC to M/s.A.D.GANESHA MOORTHY, Advocate (SR-51653[F] dated 05/03/2019)

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