



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.09.2019**

CORAM:

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

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CRL.O.P (MD) No. 10487 of 2019
and CRL.M.P (MD) Nos. 6582 & 6584 of 2019

1. Joseph Immanuvel
2. Helan Thamas
3. Thamas

... Petitioners 1 to 3/
Respondents A1,3 & 4

Vs.

1. Meera Varkees
 2. Aaran Immanuvel
- (Minor 2nd respondent's Guardian and mother Meera Varkees)
- ... Respondents/ Petitioners

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the DVOP No.6 of 2019 on the file of the learned Judicial Magistrate No.I, Kuzhithurai and quash the same.

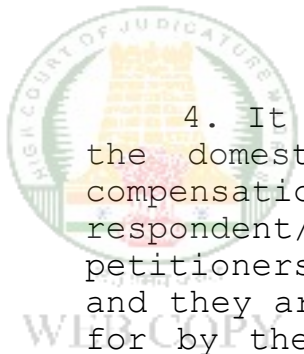
For Petitioners : M/s.K.P. Krishna Doss
For Respondents : Mr.J. Pandi Dorai

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in DVOP No. 6 of 2019, filed by the respondents herein, pending on the file of the learned Judicial Magistrate No.I, Kuzhithurai.

2.The first petitioner is husband and the petitioners-2 & 3 are relatives of the first respondent and the marriage between **A1/Joseph Immanuvel** and the first respondent Viz., Meera Varkees was solemnized on **15.04.1999**. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home. Under this circumstance, the first respondent herein filed a petition under matrimonial case in DVOP No. 6 of 2019 on the file of the learned Judicial Magistrate No.I, Kuzhithurai and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said DVOP No. 6 of 2019 is pending for trial. At this stage, the first petitioner husband and the petitioners-2 & 3 herein who are the relatives of the first respondent pray to quash the proceedings in DVOP No.6 of 2019.

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/husband, who is already a party in that case. The petitioners-2 & 5 herein are only relatives of the first 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-2 & 3/relatives, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners against the respondents 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 DVOP No. 6 of 2019, on the file of the learned Judicial Magistrate No.I, Kuzhithurai insofar as the petitioners-2 & 3 are concerned, on condition that, they shall ensure that the A1/husband of the first 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.6 of 2019, on the file of the learned Judicial Magistrate No.I, Kuzhithurai, 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 A1/husband of the first 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. A1/husband of the first respondent is directed to appear before the trial Court on the next hearing date, failing which, the respondents are at liberty to approach this Court.

7. In the result, this Criminal Original Petition is partly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Crl. Side)

/TRUE COPY/

Sub Assistant Registrar

ksa

To

The Judicial Magistrate No.I,

<https://hcservices.courts.gov.in/hcservices/>



CRL.O.P (MD) No. 10487 of 2019

+1 CC to M/s.J.PANDI DORAI, Advocate (SR-86950[F] dated 17/09/2019)

+1 CC to M/s.K.P.KRISHNA DOSS, Advocate (SR-86952[F] dated 17/09/2019)

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JM/10.10.2019/3P/4C