



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2019

CORAM:

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

WEB COPY

CRL.O.P.(MD).No.11635 of 2019

and

CRL.M.P.(MD)Nos.7313 and 7314 of 2019

1.Alavia

2.Ibrahim @ Yasin

... Petitioners/Accused 4 & 5

Vs.

1.Munsif

2.Shabeen

...Respondents/Complainants

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the case in M.C.No.221 of 2014 pending on the file of the Additional Mahila Court, Madurai which has been transferred from the Court of learned Judicial Magistrate No.V, Madurai, and quash the same as against the petitioners.

For Petitioners : Mr.R.Anand

For 2nd Respondent : Mr.S.M.A.Jinna

Service awaited for R1

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in M.C.No.221 of 2014, filed by the first respondent herein, pending on the file of the Additional Mahila Court, Madurai.

2.The petitioners are in-laws of the second respondent and the marriage between Al/**Mohammed Hanif Shazuli** and the second respondent Viz., **Shabeen** was solemnized on **01.07.2001**. Thereafter, due to matrimonial disputes the second respondent and her husband were living separately from the matrimonial home. Under this circumstance, the respondents herein filed a petition under Domestic Violence Act in M.C.No.221 of 2014 on the file of the Additional Mahila Court, Madurai and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said M.C.No.221 of 2014 is pending for trial. At this stage, the petitioners herein who are the in-laws of the second respondent pray to quash the proceedings in M.C.No.221 of 2014.



3.Heard Mr.R.Anand, learned counsel appearing for the petitioners and Mr.S.M.A.Jinna, learned counsel appearing for the second respondent.

4.It is seen that the relief sought for by the second 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 second respondent and they are living separately. As such, the protection order sought for by the second 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 second 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 M.C.No.221 of 2014, on the file of the Additional Mahila Court, Madurai, insofar as these petitioners are concerned, on condition that, they shall ensure that the A1/husband of the second respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of M.C.No.221 of 2014, on the file of the Additional Mahila Court, Madurai, as *ad-interim* maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the second respondent is entitled to withdraw the same.

6.Insofar as A1/husband of the respondent is concerned, since the impugned proceedings in M.C.No.221 of 2014 is pending from the year 2014 onwards, it would be appropriate to direct the trial Court to complete the trial within a period of six months from the date of receipt of copy of this order. A1/husband of the respondent is directed to appear before the trial Court on the next hearing date, failing which, the second 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

/TRUE COPY/

Sub Assistant Registrar



To

The Additional Mahila Court,
Madurai.

COPY TO:

Mohammed Hanif Shazuli,
81, Kajimar Street,
1st Lane, Madurai-1.

+1 CC to M/s.S.M.A.JINNAH, Advocate (SR-88799[F] dated 24/09/2019)

CRL.O.P. (MD) .No.11635 of 2019
and

CRL.M.P. (MD) Nos.7313 and 7314 of 2019
20.09.2019

JM/10.10.2019/3P/4C