



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.1522 of 2018

and

CrI.M.P(MD) Nos.659 and 660 of 2018

1.K.Sivasubramanian
2.Krishnan
3.Lakshmi
4.Magalakshmi
5.Palanimurugan

... Petitioners/ Respondents

Vs.

Selvi

...Respondent/ Petitioner

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to D.V.A.No.8 of 2016 pending on the file of the Judicial Magistrate Court No.I, Kovilpatti and quash the same.

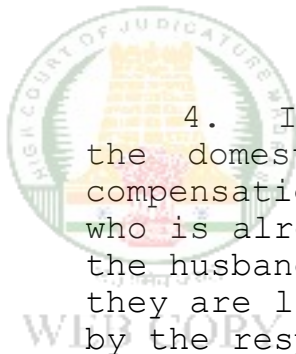
For Petitioners : Mr.H.Arumugan

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.A.No.8 of 2016, filed by the respondent herein, pending on the file of the Judicial Magistrate Court No.I, Kovilpatti.

2. The first petitioner is the husband of the respondent and the other petitioners are in-laws of the respondent and the marriage between Al/**Sivasubramanian** and the respondent Viz.,**Selvi** was solemnized on **30.11.2015**. 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 petition under Domestic Violence Act in D.V.A. No.8 of 2016 on the file of the Judicial Magistrate No.1, Kovilpatti and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.A. No.8 of 2016 is pending for trial. At this stage, the petitioners herein who are the husband and in-laws of the respondent pray to quash the proceedings in D.V.A. No.8 of 2016.

3. Heard Mr.H.Arumugam learned counsel for the petitioners.



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 first petitioner herein is the husband and the petitioners 2 to 5 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 3 to 5, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 2 to 5 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 to 5. In the absence of the same, the proceedings as against these petitioners 2 to 5 cannot be maintained and consequently, the petitioners 2 to 5 need not undergo the ordeal of facing a criminal trial.

5. In view of the above, this Court is not inclined to quash the proceedings in DVA.No.8 of 2016, on the file of the Judicial Magistrate Court No.1, Kovilpatti, as against the first petitioner and insofar as petitioners 2 to 5 are concerned, the proceedings in DVA.No.8 of 2016, on the file of the Judicial Magistrate Court No.1, Kovilpatti is hereby quashed on condition that, they shall ensure that the A1/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 DVA.No.8 of 2016, on the file of the Judicial Magistrate Court No.1, Kovilpatti, 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 respondent is concerned, since the impugned proceedings in DVA.No.8 of 2016 is pending from the year 2016 onwards, 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. A1/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 partly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar



To

The Judicial Magistrate No.I,
Kovilpatti

+1 CC to M/s.M. PRABU, Advocate (SR-85439[F] dated 05/09/2019)

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-85943[F] dated 09/09/2019)

CRL.O.P(MD) No.1522 of 2018

and

CrI.M.P(MD) Nos.659 and 660 of 2018

05.09.2019

AAV

MS/18.09.2019/3P.4C