



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

WEB COPY

Crl.O.P.(MD)No.2354 of 2018

and

Crl.M.P.(MD)Nos.1079 & 1080 of 2018

S.Aashima Banu

... Petitioner/4th Respondent

-Vs-

Kamatchi @ Jeya Divya,

... Respondent/Petitioner

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the case in D.V.C.No.09 of 2017 pending on the file of the Judicial Magistrate, Pudukkottai, and quash the same and thus render justice.

For Petitioner	: Mr.P.Gunasekaran
For Respondent	: Mr.Rameshkumar

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.09 of 2017 pending on the file of the Judicial Magistrate, Pudukkottai,

2.The petitioner is only a stranger. The marriage between Al/**Arunachalam** and the respondent Viz.,**Kamatchi @ Jeya Divya** was solemnized on **25.02.2015**. 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.C.No.09 of 2017 pending on the file of the Judicial Magistrate, Pudukkottai, and implicated the petitioner as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.09 of 2017 is pending for trial. At this stage, the petitioner herein, who is the stranger, pray to quash the proceedings in D.V.C.No.09 of 2017.

3.Heard the learned counsel for the petitioner and the learned counsel for the respondent.

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 petitioner herein is only



a stranger. As such, the protection order sought for by the respondent herein in the domestic violence case against the petitioner, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioner 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 petitioner. In the absence of the same, the proceedings against these petitioner cannot be maintained and consequently, the petitioner 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 D.V.C.No.09 of 2017 pending on the file of the Judicial Magistrate, Pudukkottai, insofar as these petitioners are concerned, 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 on the file of the learned Judicial Magistrate, Pudukkottai, 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 D.V.C.No.09 of 2017 is pending from the year 2017 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 allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

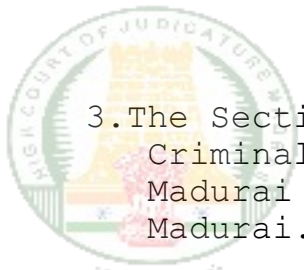
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Sub Assistant Registrar

To

1. The Judicial Magistrate,
Pudukkottai.

2. Do Through the Chief Judicial Magistrate,
Pudukkottai.



3.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1 CC to M/s.P.GUNASEKARAN, Advocate (SR-86375[F] dated
12/09/2019)

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