



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2019

CORAM:

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

CRL.O.P. (MD)No.2487 of 2018
and CRL.M.P. (MD)Nos.1133 & 1134 of 2018

Santha Seeli ...4th Respondent/ Petitioner
Vs.

1.Kanaga Jasmine
2.Minor Denish
3.Minor Benica ...Petitioners/ Respondents
(Respondents 2 and 3 are represented
by the First respondent who is their
mother and Natural Guardian)

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records to the case in D.V.O.P.No.7 of 2016 on the file of the Judicial Magistrate No.II, Kulithurai, Nagercoil and quash the same as against this petitioner by allowing this Criminal Original Petition.

Prayer amended as per the order of this Court dated 23.02.2018 made in Crl.M.P (MD)No.1264/2018.

For petitioner : Mr.P.Samuel Gunasingh

For R1 to R3 : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in D.V.O.P.No.7 of 2016, filed by the respondents herein, pending on the file of the Judicial Magistrate No.II, Kulithurai, Nagercoil.

2. The petitioner is a sister-in-laws of the first respondent and the marriage between Jeba Bennet and the first respondent Viz., Kanaga Jasmine was solemnized on 14.02.2001. Thereafter, due to matrimonial disputes the first 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 D.V.O.P.NO.7 of 2016 on the file of the Judicial Magistrate No.II, Kulithurai, Nagercoil and implicated the petitioner as party to the petition and sought action as against her under Domestic Violence Act. The said D.V.O.P.NO.7 of 2016 is



pending for trial. At this stage, the petitioner herein who is the sister-in-law of the first respondent pray to quash the proceedings in D.V.O.P.No.7 of 2016.

3.It is seen that the relief sought for by the first 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 sister-in-law of the first respondent and she is living separately. As such, the protection order sought for by the respondents 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 first 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 as against the petitioner cannot be maintained and consequently, the petitioner need not undergo the ordeal of facing a criminal trial.

4. In view of the above, this Court is inclined to quash the proceedings in D.V.O.P.No.7 of 2016, on the file of the Judicial Magistrate No.II, Kulithurai, Nagercoil insofar as the petitioner is concerned, on condition that, she shall ensure that the 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 D.V.O.P.NO.7 of 2016, on the file of the Judicial Magistrate No.II, Kulithurai, Nagercoil, as ad-interim maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the first respondent is entitled to withdraw the same.

5. Insofar as the husband of the first respondent is concerned, since the impugned proceedings in No.II, Kulithurai, Nagercoil is pending from the year 2016 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. The 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.

6. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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To

The Judicial Magistrate No.II, Kulithurai, Nagercoil.

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