



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2019

CORAM:

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

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Crl.O.P.(MD)No.303 of 2018
and
Crl.M.P.(MD)No.94 of 2018

1. Mohanasundaram
2. Paramasivam
3. Tamilselvi
4. Kulandaivel @ Jagadeesh ...Petitioners/ Respondents

-Vs-

Vigneshwari ... Respondent / Petitioner

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the proceedings in the complaint in D.V.O.P.No.11 of 2017 on the file of the Learned District Munsif cum Judicial Magistrate, Thirumayam and quash the same.

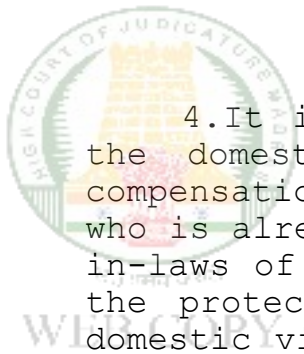
For Petitioners : Mr.R.Senthil Kumar

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.O.P.No.11 of 2017 on the file of the Learned District Munsif cum Judicial Magistrate, Thirumayam.

2.The first petitioner is the husband and the petitioners 2 to 4 are in-laws of the respondent and the marriage between the first petitioner/**Mohanasundaram** and the respondent Viz,**Vigneshwari** was solemnized on **07.06.2015**. 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.O.P.No.11 of 2017 on the file of the Learned District Munsif cum Judicial Magistrate, Thirumayam and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.O.P.No.11 of 2017 is pending for trial. At this stage, the petitioners herein, who are the in-laws of the first respondent, pray to quash the proceedings in D.V.O.P.No.11 of 2017.

3.Heard the 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 petitioners 2 to 4 are only 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 the petitioners 2 to 4, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 2 to 4 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 4. In the absence of the same, the proceedings as against the petitioners 2 to 4 cannot be maintained and consequently, the petitioners 2 to 4 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.O.P.No.11 of 2017 on the file of the Learned District Munsif cum Judicial Magistrate, Thirumayam, insofar as the petitioners 2 to 4 are concerned, on condition that, they shall ensure that the first petitioner/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 D.V.O.P.No.11 of 2017 on the file of the Learned District Munsif cum Judicial Magistrate, Thirumayam, 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 first petitioner/ husband of the respondent is concerned, there are specific allegations as against the petitioner, this Court is not inclined to quash D.V.O.P.No.11 of 2017. Hence, this Petition is dismissed as far as the first petitioner/Mohanasundaram is concerned. Since the impugned proceedings in D.V.O.P.No.11 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. The first petitioner /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 is partly allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar



To

The District Munsif cum Judicial Magistrate,
Thirumayam

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+1 CC to M/s.P.DHANASEKARAN, Advocate (SR-85176[F] dated 04/09/2019

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