



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2019

CORAM:

WEB COPY

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

CRL.O.P. (MD) .No.3656 of 2018

and

CRL.M.P. (MD) .No.1740 of 2018

- 1.Periyanayagi
- 2.Swarnalatha
- 3.Balasubramanian
- 4.Jeyakodi
- 5.Sayadevi
- 6.Manimegalai
- 7.Pavithra

... Petitioners

Vs.

- 1.Kanimozhi
- 2.Thiraviya
- 3.The District Social Welfare Officer,
District Social Welfare Office,
Sivagangai.
- 4.The Inspector of Police,
All Women Police Station,
Devakottai, Sivagangai District.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records relating to the proceedings in D.V.C.No.17 of 2017, pending on the file of the learned Judicial Magistrate, Devakottai and quash the same against these petitioners.

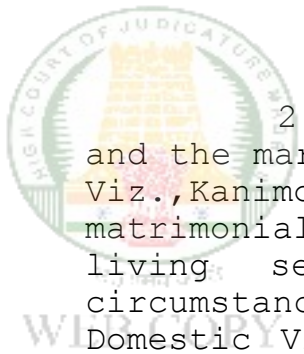
For Petitioners : Mr.A.K.Manickam

For R-1 & R-2 : Mr.A.Muralikumar

For R-3 & R-4 : Mr.K.Suyambulinga Bharathi
Government Advocate (Criminal side)

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.17 of 2017, pending on the file of the learned Judicial Magistrate, Devakottai.



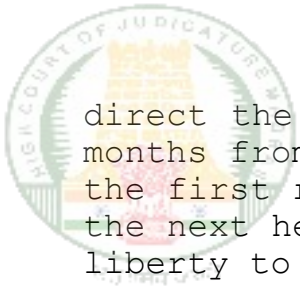
2. The petitioners are relatives of the respondents 1 and 2 and the marriage between A1/Marudhupandiyan and the first respondent Viz., Kanimozhi was solemnized on 22.04.2015. Thereafter, due to matrimonial disputes the first respondent and her husband were living separately from the matrimonial home. Under this circumstance, the respondents 1 and 2 herein filed a petition under Domestic Violence Act in D.V.C.No.17 of 2017, on the file of the learned Judicial Magistrate, Devakottai and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.17 of 2017 is pending for trial. At this stage, the petitioners herein who are the relatives of the respondents 1 and 2 pray to quash the proceedings in D.V.C.No.17 of 2017.

3. Heard M.A.K.Manickam, learned counsel for the petitioners, Mr.A.Muralikumar, learned counsel appearing for the respondents 1 and 2 and Mr.K.Suyambulinga Bharathi, learned Government Advocate (Criminal side) appearing for the respondents 3 and 4.

4. 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 petitioners herein are relatives and they are living separately. As such, the protection order sought for by the respondents 1 and 2 herein in the domestic violence case against these petitioners/relatives, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners against the respondents 1 and 2 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 D.V.C.No.17 of 2017, on the file of the Judicial Magistrate Court Devakottai, insofar as these petitioners are concerned, on condition that, they shall ensure that the A1/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.C.No.17 of 2017, on the file of the Judicial Magistrate Court, Devakottai 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.

6. Insofar as A1/husband of the first respondent is concerned, since the impugned proceedings in D.V.C.No.17 of 2017 is pending for trial, it would be appropriate to quash the proceedings in D.V.C.No.17 of 2017, on the file of the Judicial Magistrate Court, Devakottai, insofar as the first respondent is concerned, on condition that, they shall ensure that the A1/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.C.No.17 of 2017, on the file of the Judicial Magistrate Court, Devakottai 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.



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 first respondent is directed to appear before the trial Court on the next hearing date, failing which, the respondents 1 and 2 are at liberty to approach this Court.

WEB COPY

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

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

tsg

To

- 1.The District Social Welfare Officer,
District Social Welfare Office,
Sivagangai.
- 2.The Inspector of Police,
All Women Police Station,
Devakottai, Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CRL.O.P. (MD) .No.3656 of 2018
and CRL.M.P. (MD) .No.1740 of 2018
13.09.2019

JMN(01.10.2019) 3P : 4C