



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2019

CORAM:

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

CRL.O.P (MD) No.4061 of 2018
and CRL.M.P (MD) Nos. 2010 & 2011 of 2019

Stella ... Petitioner/2nd Respondent

Vs.

Hema Jennifer ...Respondent/Petitioner

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to DVC No. 1 of 2018 on the file of the learned Judicial Magistrate, Pattukkottai and quash the same.

For Petitioner : Mr.M. Veil Kani Raju

For Respondent : Mr. P. Susebalan Raja

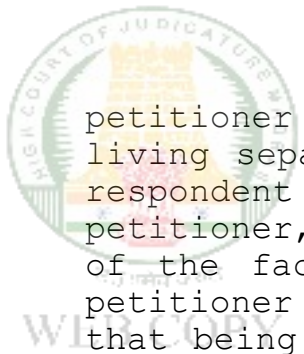
O R D E R

This Criminal Original Petition has been filed to quash the proceedings in DVC No. 1 of 2018, filed by the respondent herein, pending on the file of the learned Judicial Magistrate, Pattukkottai.

2. The marriage between A-1/Ajit Daniel and the respondent/Hema Jennifer was solmnized on 05.09.2008. The petitioner is the in law of the respondent. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home. Under this circumstances, the respondent herein filed a petition under matrimonial case in DVC No. 1 of 2018 on the file of the learned Judicial Magistrate, Pattukkottai and implicated the petitioner as parties to the petition and sought action as against them under Domestic Violence Act. The said DVC No. 1 of 2008 is pending for trial. At this stage, the petitioner pray to quash the proceedings in DVC No. 1 of 2018.

3.Perused the material documents available on record.

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 the respondent's husband, who is already a party in that case. The



petitioner herein are only in-law 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 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 as against the 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 DVC No.1 of 2018, on the file of the learned Judicial Magistrate, Pattukkottai, insofar as the petitioner is concerned, on condition that, she shall ensure that the Al/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 DVC No.1 of 2018, on the file of the learned Judicial Magistrate, Pattukkottai, 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. In view of the above, this Court is inclined to quash the proceedings in DVC No. 1 of 2018, on the file of the learned Judicial Magistrate, Pattukkottai, insofar as the petitioner is concerned. However, the trial Court is directed to complete the trial within a period of Six (6) months, from the date of receipt of copy of this order. Al/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 petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

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To

The Judicial Magistrate, Pattukkottai.

CRL.O.P (MD) No.4061 of 2018
17.09.2019

JMN (30.10.2019) 2P : 2C

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