



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **24.09.2019**

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN
Crl.O.P(MD)No.4404 of 2018

and

Crl.M.P. (MD)No.2155 of 2018

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1.G.Sakthivel
2.Ganesan
3.Kumutham
4.Balasubramanian
5.B.Santhiya ... Petitioners

-Vs-

1.S.Arthiya @ Prasanna
2.Minor. Tharsana ... Respondents
(2nd respondent through his Mother
and Guardian of the 1st respondent)

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pending on the file of the learned Judicial Magistrate No.II, Kumbakonam, D.V.C.No.02 of 2018 and quash the criminal proceeding.

For Petitioners : Mr.S.Chellapandian
For Respondents : Mr.K.Prabakaran

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.02 of 2018 on the file of the learned Judicial Magistrate No.II, Kumbakonam, Thanjavur District.

2.The first petitioner is husband and the petitioners 2 to 5 are in-laws of the first respondent and the marriage between the first petitioner/ G.Sakthivel and the first respondent Viz.,S.Arthiya @ Prasanna was solemnized on 29.06.2012. Thereafter, due to matrimonial disputes the first respondent and her husband were living separately from the matrimonial home. Under this circumstance, the first respondent herein filed a petition under Domestic Violence Act in D.V.C.No.02 of 2018 on the file of the learned Judicial Magistrate No.II, Kumbakonam, Thanjavur District. 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.02 of 2018 is pending for trial. At this stage, the first petitioner, who is the husband and the petitioners 2 to 5 herein, who are the in-laws of the first respondent, prays to quash the proceedings in D.V.C.No.02 of 2018.



3. Heard the learned counsel for the petitioners and the learned counsel for the respondents.

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/first petitioner, who is already a party in that case. Hence, this Criminal Original Petition is dismissed as far as the first petitioner/husband is concerned. The petitioners 2 to 5 herein are only in-laws of the first respondent and they are living separately. As such, the protection order sought for by the first respondent herein in the domestic violence case against the petitioners 2 to 5/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 2 to 5 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 petitioners 2 to 5. In the absence of the same, the proceedings as against the petitioners 2 to 5 cannot be maintained and consequently, the petitioners 2 to 5 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.02 of 2018 on the file of the learned Judicial Magistrate No.II, Kumbakonam, Thanjavur District, insofar as the petitioners 2 to 5 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 in D.V.C.No.02 of 2018 on the file of the learned Judicial Magistrate No.II, Kumbakonam, Thanjavur District, 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 the first petitioner/husband of the first respondent is concerned, this Petition is dismissed. Since the impugned proceedings in D.V.C.No.02 of 2018, is pending from the year 2017 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 first petitioner/husband of the first 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 petitions are closed.

Sd/-

Assistant Registrar (writs)

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// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate No.II,
Kumbakonam.

+1 CC to Mr.S.CHELLAPANDIAN, Advocate (SR-89320[F] dated 25/09/2019)

+1 CC to Mr.K.PRABAKARAN, Advocate (SR-89708[F] dated 26/09/2019)

Crl.O.P(MD)No.4404 of 2018

and

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24.09.2019

vsd

MK (15.10.2019) 3P 4C