



WEB COPY

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.4487 of 2018

and

Crl.M.P(MD)No.2195 of 2018

1.Abdul Majeed

2.M.A.Segana

3.A.Halima

...Petitioners 1 to 3/Respondents 2 to 4

Vs.

Vaseela Banu

...Respondent/Petitioner

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the private complaint in D.V.O.P.No.2 of 2018, on the file of the Judicial Magistrate Court -1, Tirunelveli under Sections 12(1)(2), 18(a)(b), 19(a)(b)(c), 20(1)(d) and 22 of the Protection of Women from Domestic Violence Act 2005, and quash the same as illegal as against this petitioners are concerned.

For Petitioners	: Mr.K.C.Maniyarasu
For Respondent	: Mr.S.P.Maharajan

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.O.P.No.2 of 2018, on the file of the learned Judicial Magistrate Court -1, Tirunelveli as against the petitioners.

2. The petitioners are in-laws of the respondent and the marriage between Al/Rafic Ahamed and the respondent Viz.,_Vaseela Banu was solemnized on 18.04.2010. 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 Sections 12(1)(2), 18(a)(b), 19(a)(b)(c), 20(1)(d) and 22 of the Protection of Women from Domestic Violence Act 2005, in D.V.No.2 of 2018 on the file of the learned Judicial Magistrate No.1, Tirunelveli and implicated the petitioners as parties to the petition and sought action as against them under Sections 12(1)(2), 18(a)(b), 19(a)(b)(c), 20(1)(d) and 22 of the Protection of Women from Domestic Violence Act 2005. The said D.V.No.2 of 2018 is pending for trial. At this stage, the petitioners herein, who are the in-laws of the



respondent, prays to quash the proceedings in D.V.No.2 of 2018.

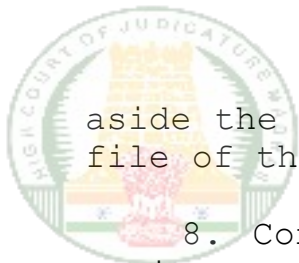
3. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

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 herein are 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 these petitioners/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners against the respondent itself seems to be false. While that being so, there cannot be any act of any domestic violence as defined under Sections 12(1)(2), 18(a)(b), 19(a)(b)(c), 20(1)(d) and 22 of the Protection of Women from Domestic Violence Act 2005, 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.No.2 of 2018 on the file of the learned Judicial Magistrate No.1, Tirunelveli, insofar as these petitioners are concerned, on condition that, they shall ensure that the A1/ 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.No.2 of 2018 on the file of the learned Judicial Magistrate No.1, Tirunelveli, 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 A1/husband of the respondent is concerned, since the impugned proceedings in D.V.No.2 of 2018 is pending from the year 2018 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. A1/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. The learned counsel for the respondent submitted that already by an order dated 10.10.2018 the D.V.C. complaint ordered as against the first petitioner herein and insofar as the other petitioners 2 and 3 are concerned the complaint itself was dismissed. However, the first petitioner filed a petition to set



aside the exparte order, dated 10.10.2018 and it is pending on the file of the learned Judicial Magistrate No.1, Tirunelveli.

8. Considering the facts and circumstances of the case, the entire proceedings is set-aside as against the petitioners. The respondent is directed to proceed as against the first accused namely her husband. The learned Judicial Magistrate No.1, Tirunelveli, is directed to complete the proceedings within a period of three months from the date of receipt of a copy of this order.

9. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

vsd

To

The Judicial Magistrate No.1,
Tirunelveli.

+1 CC to M/s.K.C.MANIYARASU, Advocate (SR-89075[F] dated 25/09/2019)

+1 CC to M/s.S.P.MAHARAJAN, Advocate (SR-89490[F] dated 26/09/2019)

Crl.O.P. (MD)No.4487 of 2018

and

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