



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2019

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) No.4975 of 2018

and

CrI.M.P.(MD) Nos.2438 and 2439 of 2018

1.J.Sheik Abdullah Khan
2.A.Jabarulla Khan
3.Johnma

: Petitioners/Respondents 1 to 3

Vs

J.Rasool Nisha

: Respondent/Petitioner

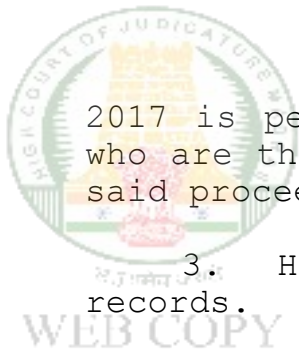
PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for records in DVC No.11 of 2017 on the file of the Judicial Magistrate, Ambasamudram and quash the same as illegal.

For Petitioner : Mr.S.M.A.Jinnah

O R D E R

This petition has been filed to quash the proceedings in in DVC No.11 of 2017 on the file of the Judicial Magistrate, Ambasamudram.

2. The 1st petitioner is the husband and the 2nd and 3rd petitioners are in-laws of the respondent/defacto complainant and the marriage between the 1st petitioner and the respondent was solemnized on 21.04.2017. 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.C.No.11 of 2017 on the file of the Judicial Magistrate, Ambasamudram 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.11 of



2017 is pending for trial. At this stage, the petitioners herein who are the husband and in-laws of the respondent pray to quash the said proceedings.

3. Heard both sides and perused the materials available on records.

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 the 1st petitioner herein. The 2nd and 3rd petitioners herein 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 2nd and 3rd petitioners/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the 2nd and 3rd 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 Domestic Violence Act against the 2nd and 3rd petitioners. In the absence of the same, the proceedings as against the 2nd and 3rd petitioners cannot be maintained and consequently, the 2nd and 3rd 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 DVC.No.11 of 2017, on the file of the Judicial Magistrate, Ambasamudram insofar as the 2nd and 3rd petitioners are concerned, on condition that, they shall ensure that the 1st 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 DVC.No.11 of 2017, on the file of the learned Judicial Magistrate, Ambasamudram, 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 1st petitioner/husband of the respondent is concerned, when this matter has taken up on 28.08.2019, the learned counsel appearing for the petitioners made an endorsement to the effect that he is not pressing the petitioner for the 1st petitioner and hence, this petition is dismissed as not pressed insofar as the 1st accused is concerned. However, since the impugned proceedings in DVC.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 1st 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 stands partly allowed. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (AD-II)

Sub Assistant Registrar(CS)

Arul

To

1.The Judicial Magistrate, Ambasamudram.

Order made in
CRL.O.P (MD) No.4975 of 2018
17.10.2019

CS(11.11.2019) 3P 2C