



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) No.943 of 2018

and CrI.M.P. (MD) Nos.410 and 411 of 2018

Subhasini

... Petitioner/3rd Respondent

Vs

Preethu

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the entire records pertaining to the case in D.V.A.No.14 of 2016, on the file of the learned Judicial Magistrate No.I, Kovilpatti, Thoothukudi District and quash the same as against the petitioner.

For Petitioner : Mr.R.Anand

For Respondent : Mr.S.Parthasarathy

O R D E R

This petition has been filed to quash the proceedings in D.V.A.No.14 of 2016, on the file of the learned Judicial Magistrate No.I, Kovilpatti, Thoothukudi District.

2.The petitioner is the in-law of the respondent and the marriage between A1/**D.J. Satheesh** and the respondent Viz., **Preethu** was solemnized on **17.04.2011**. 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.A. No.14 of 2016 before the learned Judicial Magistrate No.1, Kovilpatti and implicated the petitioner as party to the petition and sought action as against them under Domestic Violence Act. The said D.V.A. No.14 of 2016 is pending for trial. At this stage, the petitioner herein who are the in-law of the respondent pray to quash the proceedings in D.V.A. No.14 of 2016.

3.Heard Mr.R.Anand, learned counsel appearing for the petitioner and Mr.S.Parthasarathy, 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 petitioner herein is the in-law of the respondent. 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, the proceedings in DVA.No. 14 of 2016, on the file of the Judicial Magistrate Court No.1, Kovilpatti is hereby quashed 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 DVA.No. 14 of 2016, on the file of the Judicial Magistrate Court No.1, Kovilpatti, 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 DVA.No. 14 of 2016 is pending from the year 2016 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. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar (CS)

Ksa

To

The Judicial Magistrate No.I, Kovilpatti,

+1 CC to Mr.S.PARTHASARATHY, Advocate (SR-91157[F] dated 03/10/2019)

Order made in

CRL.O.P (MD) No.943 of 2018

03.10.2019

__MK (15.11.2019) 2P 3C

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