



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.10.2019**

CORAM:

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

CRL.O.P (MD) No. 13424 of 2019

and CRL.M.P (MD) Nos. 8231 & 8232 of 2019

1. Ganesh Prabhu
2. Narayanamoorthy
3. Chitra Devi

... Petitioners/A1 to A3

Vs.

Bavithra

...Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the DVOP No.12 of 2019, dated 01.08.2019 on the file of the learned Judicial Magistrate, Nilakottai, under Section 12 of Protection of Women from Domestic Violence Act, 2005 and quash the same.

For Petitioners : Mr.T. Lajapathi Roy

For Respondent : Mr. C. Kannan

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in DVOP No. 12 of 2019, filed by the respondent herein, pending on the file of the learned Judicial Magistrate, Nilakottai.

2. The first petitioner is husband and the petitioners-2 & 3 are in-laws of the respondent and the marriage between **A1/ Ganesh Prabhu** and the respondent Viz., **Bavithra** was solemnized on **01.12.2017**. 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 matrimonial case in DVOP No. 12 of 2019 on the file of the learned Judicial Magistrate, Nilakottai and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said DVOP No. 12 of 2019 is pending for trial. At this stage, the first petitioner husband and the petitioners-2 & 3 herein who are the in-laws of the respondent pray to quash the proceedings in DVOP No.12 of 2019.

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 first respondent/husband, who is already a party in that case. The petitioners-2 & 3 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 petitioners-2 & 3/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 Domestic Violence Act against the petitioners-2 & 3. In the absence of the same, the proceedings as against the petitioners-2 & 3 cannot be maintained and consequently, the petitioners-2 & 3 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 DVOP No.12 of 2019, on the file of the learned Judicial Magistrate, Nilakottai, insofar as the petitioners-2 & 3 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 DVOP No.12 of 2019, on the file of the learned Judicial Magistrate, Nilakottai, 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 the Criminal Original Petition is dismissed. However, the learned Judicial Magistrate, Nilakottai is directed to complete the trial within a period of **Six(6)** 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 is partly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar(CS)

ksa

To

The Judicial Magistrate,
Nilakottai.

+2 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-95073[F] dated
31/10/2019) (SR-97964[F] dated 13/11/2019)

CRL.O.P (MD) No.13424 of 2019

30.10.2019

KK/SAR/25.11.2019/2P-4C/

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