



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE **G.K. ILANTHIRAIYAN**

Crl.O.P. (MD) No.14244 of 2019

and

Crl.MP(MD)Nos.8629 & 8631 of 2019

WEB COPY

1.Mehaboob Subahaani

2.M.Abulhudha

3.Bismi Nisha

4.Abdul Khadar

5.Nameesha

6.Umul Munavra

... Petitioners/Accused Nos.1 to 6

Vs.

A.Fathima Shifana

... Respondent/Petitioner

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to the impugned proceedings in DVOP No.33 of 2019 of the file of the Judicial Magistrate, Tiirunelveli and quash the same as against these petitioners.

For Petitioners : Mr.N.Mohideen Basha

For Respondent : Mr.J.Ashok

ORDER

This petition has been filed to quash the proceedings in D.V.O.P.No.33 of 2019 of the file of the learned Judicial Magistrate, Tiirunelveli.

2.The petitioners 2 to 6 are in-laws of the respondent and the marriage between A1/Mehaboob Subahaani and the respondent Viz., A.Fathima Shifana was solemnized on 12.04.2017. 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.O.P.No.33 of 2019 of the file of the learned Judicial Magistrate, Tiirunelveli, and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.O.P.No.33 of 2019 is pending for trial. At this stage, the first petitioner, who is the husband of the respondent and the petitioners 2 to 6 herein, who are the in-laws of the respondent, pray to quash the proceedings in D.V.O.P.No.33 of 2019.



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 2 to 6 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 to 6/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 6 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 to 6. In the absence of the same, the proceedings as against the petitioners 2 to 6 cannot be maintained and consequently, the petitioners 2 to 6 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.O.P.No.33 of 2019 on the file of the learned Judicial Magistrate, Tiirunelveli, insofar as the petitioners 2 to 6 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.O.P.No.33 of 2019 on the file of the learned Judicial Magistrate, Tiirunelveli, 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.O.P.No.33 of 2019 is pending from the year 2019 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. 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 partly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)



dss

To

The Judicial Magistrate,
Tiirunelveli.

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+1CC TO MR.N.MOHIDEEN BASHA, Advocate Sr. No. 99794

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