



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) .No.6509 of 2018

and

Crl.M.P. (MD) Nos.3101 and 3102 of 2018

WEB COPY

Sou.Jyothi

... Petitioner

- Vs. -

N.Misika Saviyas

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records relating to the proceedings in DVOP No.2 of 2018 on the file of the Judicial Magistrate No.1, Kuzhithurai, Kanyakumari District and quash the same as it has no prima facie case as against the petitioner.

For Petitioners : Mr.E.K.John Victor Ellis

For Respondent : Mr.V.Sasi Kumar

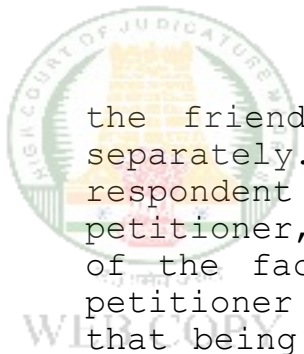
ORDER

This petition has been filed to quash the complaint in DVOP No.2 of 2018 on the file of the Judicial Magistrate No.1, Kuzhithurai, Kanyakumari District as against the petitioner.

2.The petitioner is the friend of the husband of the respondent and after the marriage, 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 DVOP No.2 of 2018 on the file of the Judicial Magistrate No.1, Kuzhithurai, Kanyakumari District and implicated the petitioner as party to the petition and sought action as against her under Domestic Violence Act. The said DVOP No.2 of 2018 is pending for trial. At this stage, the petitioner herein who is the friend of the husband of the respondent prays 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 already a party in that case. The petitioner herein is only



the friend of the husband of the respondent and she is living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against this 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 this petitioner. In the absence of the same, the proceedings as against this petitioner cannot be maintained and consequently, this petitioner 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.2 of 2018 on the file of the Judicial Magistrate No.1, Kuzhithurai, Kanyakumari District insofar as this petitioner is concerned.

6. Insofar as the other accused/respondent in D.V.O.P.No.02 of 2018 are concerned, 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. The accused persons are 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 petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

Arul

To

The Judicial Magistrate No.1,
Kuzhithurai,
Kanyakumari District.

+1 CC to Mr.V.SASI KUMAR, Advocate (SR-94456[F] dated 25/10/2019)

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24.10.2019

VB(14.11.2019) 2P 3C