



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2019

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.17285 of 2015

and

M.P. (MD)Nos.1 and 2 of 2015

1. Jayarani
2. Shanthi

... Petitioners/Respondents 3&4

Vs.

Sindhu Maheswari

... Respondent/Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to M.C.No.8 of 2015 pending on the file of the learned Judicial Magistrate, Srivaikundam and quash the proceedings as against the petitioners herein.

For Petitioners : Mr.S.Deenadhayalan

For Respondent : Mr.C.T.Perumal

* * *

O R D E R

The petitioners are the in-laws of the respondent. The respondent filed M.C.No.8 of 2015 on the file of the Judicial Magistrate, Srivaikundam, as per the provisions of Protection of Women from Domestic Violence Act 2005.

2. Devaraj is the husband of the respondent herein. Kattithangam is the mother-in-law. The first petitioner is the sister-in-law of the respondent and the second petitioner is the daughter of the first petitioner. The matrimonial home of the respondent was at Eral. The petitioners herein are the residents of Thiruchendur Taluk. Eral is in Srivaikundam Taluk. The petitioners were not part of the shared household in which the respondent herein was residing.

3. The petitioner's counsel brought to my notice a decision reported in 2017 (5) CTC 515(Santineer Vincent Rajkumar V. R.Rejitha) held as follows:-

<https://hcservices.ecourts.gov.in/hcservices/>



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"22. When the complainant is not living under the same roof, Domestic Violence Act will not be attracted. I say so, by drawing inspiration from the parameter for scrutinizing such complaints as elucidated by the Hon'ble Supreme Court in Preeti Gupta and another V. State of Jharkhand and another, 2010 (7) SCC 667. I deem it appropriate to extract paragraph 35 in Preeti Gupta's case, which reads as follows:

'35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The Courts have to be extremely careful and cautious in dealing with these Complaints and must take pragmatic realities into consideration while dealing with Matrimonial cases. The allegations of harassment of Husband's close relations who had been living in different cities and never visited or rarely visited the place where the Complainant resided would have an entirely different complexion. The allegations of the Complainant are required to be scrutinised with great care and circumspection.'

4. Applying the ratio laid down by the Hon'ble Supreme Court, the impugned prosecution deserves to be quashed as far as the petitioners are concerned. The prosecution will continue as against the other respondents.

5. The criminal original petition stands allowed, accordingly. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl.side)

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Sub Assistant Registrar(CS)



To:

1. The Judicial Magistrate, Srivaikundam.
2. -do-through The Chief Judicial Magistrate,
Thoothukudi District.

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+1 CC to M/s.S.DEENADHAYALAN, Advocate (SR-101990[F] dated 28/11/2019)

+1 CC to M/s.C.T.PERUMAL, Advocate (SR-102294[F] dated 28/11/2019)

PMU

TE : 04/06/2020 : 3P/5C

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