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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.12.2019
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
CRL OP(MD). No.19360 of 2015
and
M.P.(MD)Nos.1 and 2 of 2015

1.Paramasivam
2.Ramar
3.Rakku ... Petitioners/Respondents

-Vs-

P.Ganesan ... Respondent/Father of the Aggrieved person

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the proceedings of M.C.No.23 of 2013, pending on the file of the learned Judicial Magistrate No.II, Virudhunagar and to quash the same in respect of this petitioners.

For Petitioners : Mr.Babu Rajendran
For Respondent : Mr.R.Murugappan

O R D E R

The petitioners have been shown as respondents in M.C.No.23 of 2013, on the file of the learned Judicial Magistrate No.II, Virudhunagar. The said maintenance case was filed by the respondent herein under Section 12 of the Protection of Women from Domestic Violence Act, 2005. The respondent herein is none other than the father-in-law of the first petitioner herein. The first petitioner herein got married to the daughter of the respondent during the year 2010. She committed suicide on 08.06.2013. The respondent herein alleges that the petitioners have misappropriated the seethana articles. Seeking their return, the impugned M.C.No.23 of 2013 has been filed. To quash the same, this criminal original petition has been filed.

2.Heard the learned counsel on either side.

3.The learned counsel appearing for the petitioner points out that on the set of facts, the respondent has given a criminal case against the petitioners and the same is pending trial in C.C.No.161 of 2015, on the file of the learned Judicial Magistrate No.II, Virudhunagar. He would therefore contend that parallel proceedings cannot be maintained. He would further contend that the respondent has no *locus standi* to maintain the impugned petition under Central Act 43 of 2015.

4.I find the second contention to be more attractive. Section 2(a) of the Protection of Women from Domestic Violence Act, 2005 defines who is an aggrieved person. It reads as follows:-

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''"Aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected too any act of domestic violence by the respondent'.'

5.Section 12 of the said Act enables an aggrieved person or Protection Officer or any other person on behalf of the aggrieved person to present an application under the Act to the Magistrate seeking one or more reliefs under the Act. In this case, obviously the respondent herein will not fall within the term "aggrieved person". The provision denotes only a woman. In fact the Act itself has been titled as the Protection of Women from Domestic Violence Act, 2005.

6.It does not talk about an aggrieved person who is no more. It partakes within its scope only an aggrieved person who is alive. Therefore, the respondent herein obviously lacks competence to file a petition under Section 12 of Act. Therefore, the impugned proceedings are patently without jurisdiction and the same is quashed. The criminal original petition stands allowed leaving open all the contentions and defences of the petitioner.

7.However, the grievance of the respondent will have to be redressed. He has made certain claims against the petitioners herein. The same are pending trial in C.C.No.161 of 2015. If the learned Trial Magistrate comes to a conclusion that the petitioners have not returned the seethana articles, certainly, the learned Trial Magistrate will have the power and jurisdiction and also the duty to give a direction for their return or direct the accused to pay the monetary equivalent to the defaco complainant. Therefore, the rights and remedies of the respondent are very much intacted. Merely because, I have given this direction it does not mean that I have made pronouncement on the merits of the matter. Since the issues is pending for more than six years, the learned Trial Magistrate is requested to expedite the trial of C.C.No.161 of 2015. consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-I)

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Sub Assistant Registrar(CS)

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To:

The Judicial Magistrate No.II, Virudhunagar.

+1 CC to M/s.BABU RAJENDRAN, Advocate (SR-103387[F]

Crl.O.P.(MD)No.19360 of 2015

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