



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL OP (MD) . No.20122 of 2015

and

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

1.Ganapathiapillai
2.Sankari
3.Valli
4.Kavitha
5.Raja

... Petitioners / Accused 2 to 5

-Vs-

Selvalakshmi

... Respondent / Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the case in D.V.O.P.No.3 of 2015, on the file of the learned Judicial Magistrate, Nanguneri and quash the same.

For Petitioners : Mr.J.Jeyakumarn
For Respondent : Mr.M.Suresh Babu

O R D E R

The petitioners are figuring as respondents 2 to 6 in D.V.O.P.No.3 of 2015, on the file of the learned Judicial Magistrate, Nanguneri. The petitioners are in-laws. The said D.V.O.P was instituted by the respondent herein. The respondent herein got married to one Murugan, who is the son of the petitioners 1 and 2 herein on 11.11.2012. Their matrimonial home was at Tirunelveli. But at no point of time, the petitioners herein were part of the shared household. Therefore, the impugned proceedings cannot be maintained against the petitioners.

2.The learned Judge of this Court in a decision reported in 2017 (5) CTC 515 held as follows:-

''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 Vs. 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 :

'5.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.'''

3.Applying the ratio laid down in the aforesaid decision, the impugned proceedings stand quashed as far as the petitioners are concerned. It will of course go on as against the husband of the respondent herein, who has been shown as first respondent in the said D.V.O.P. The criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

The Judicial Magistrate,
Nanguneri, Tirunelveli District.

+1 CC to M/s.M.SUBASH BABU, Advocate (SR-103550[F]

CrI.O.P. (MD)No.20122 of 2015

04.12.2019

ias

SDS (03.06.2020) 2P-3C