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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2019

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.20547 of 2015 and

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

Susila Rani

... Petitioner/5th Respondent

Vs.

Arumai Ammal Ponselvi

... Respondent/Petitioner

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records in proceedings in D.V.O.P.No.4 of 2015 on the file of the Judicial Magistrate, Nanguneri and quash the same as against the petitioner herein.

For Petitioner	: Mr.R.Pon Karthikeyan
For Respondent	: Mr.S.R.A.Ramachandran

O R D E R

The petitioner is figuring as one of the respondents in D.V.O.P.No.4 of 2015 on the file of the Judicial Magistrate, Nanguneri. It was filed by the respondent herein.

2. The respondent was married to one Vincent Baskar on 04.11.2011. Thereafter, the matrimonial home was set up at Mavadi, Thoothukudi. The petitioner herein is the mother-in-law of the respondent. The petitioner was all along residing at Meignanapuram, Thoothukudi. In other words, the petitioner was not living under the same roof as that the respondent. Thus she was not part of the shared household.

3. The Hon'ble Supreme Court held that a person who is not part of the shared household ought not to be made as respondent in the proceedings under the Protection of Women from Domestic Violence Act 2005. 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:-

"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. The ratio laid down by the Madras High Court in the aforesaid case is squarely applicable to the case on hand. The impugned prosecution stands quashed as far as the petitioner is concerned. The criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

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Sub Assistant Registrar(CS)

pmu

To:

1. The Judicial Magistrate, Nanguneri.

+1 CC to M/s.R.PON KARTHIKEYAN, Advocate (SR-103206[F] dated 03/12/2019)

Crl.O.P.(MD)No.20547 of 2015

03.12.2019

DKS (CO)

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