



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.20965 of 2015

and M.P. (MD)No.1 of 2015

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Bireesh Rodrigo

... Petitioner/4th Respondent

Vs.

Mary Minitha

... Respondent/Petitioner

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the petition filed by the respondent before the learned Judicial Magistrate No.I, Tuticorin as M.C.No.8 of 2015 and quash the same as against this petitioner.

For Petitioner : Mr.B.Rajesh Saravanan
For Respondent : M/s.Jessi Jevapriya,
for Mr.G.Aravindan.

ORDER

The petitioner is figuring as the fourth respondent in M.C.No.8 of 2015 on the file of the Judicial Magistrate No.I, Thoothukudi.

2. It was instituted by the respondent herein under the provisions of the Protection of Women from Domestic Violence Act 2003.

3. The petitioner is the husband of the sister-in-law of the respondent herein. It is seen that the petitioner was not part of the shared household.

4. The Madras High Court in the 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.



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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.'

5. The law laid down by the Madras High Court in the aforesaid decision is squarely applicable to the case on hand. The respondent's counsel states that the petitioner had been threatening her. The petitioner's counsel states that the petitioner did not do so and in any event, he would not do so.

6. Recording the said statement, the impugned proceedings stand quashed as far as the petitioner is concerned. The criminal original petition stands allowed on these terms. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.side)

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/ /2020

Sub Assistant Registrar(CS)

pmu

To:

The Judicial Magistrate No.I, Tuticorin.

+1 CC to M/s.B.RAJESH SARAVANAN, Advocate (SR-103349[F]
+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate (SR-103223[F]

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SMA/05/06/2020/2P/4C