



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.2260 of 2015
and
M.P.(MD)Nos.1 and 2 of 2015

1.Murugan
2.Rathinam
3.Saratha
4.Kalpana
5.Suresh

... Petitioners/Accused No.1 to 5

Vs.

Murugeswari

... Respondent /Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to the private complaint in C.C.No.266 of 2014, on the file of Judicial Magistrate, Thirupathur and quash the same as illegal.

For Petitioners : Mr.R.Gandhi
For Respondent : No Appearance

O R D E R

This petition has been filed to quash the proceedings in C.C.No.266 of 2014, on the file of Judicial Magistrate, Thirupathur.

2.The respondent herein got married to the first petitioner on 24.02.2012. It appears that their marital relationship came under strain. Therefore, she filed a complaint under the provisions of the Protection of Women from Domestic Violence Act, 2005, before the learned Judicial Magistrate, Thirupathur. The learned Trial Magistrate issued summons to the petitioners herein. Challenging the impugned proceedings, this Criminal Original Petition has been filed.

3.The learned counsel appearing for the petitioners raised twofold contentions. The first contention is that while the first and second petitioners herein namely, the husband and mother-in-law of the respondent herein have to face the proceedings before the Court below, there is absolutely no justification whatsoever for



impleading petitioners 3 to 5 herein. The petitioners 3 to 5 are only in-laws of the complainant. The primary allegations have been made only against the first petitioner.

5.The other substantial contention is that the Court below, while conducting the proceedings under the Protection of Women from Domestic Violence Act, cannot try the petitioners for the substantive offences under the Indian Penal Code.

6.I am in full agreement with both the contentions.

7.The Court below ought to have entertained the impugned proceedings only under the provision of the Protection of Women from Domestic Violence Act, 2005.

8.I also find that there is no justification whatsoever for arraying the petitioners 3 to 5 as respondents in the impugned proceedings. In this view of the matter, the impugned proceedings are quashed in toto as far as the petitioners 3 to 5 are herein. The first and second petitioners will have to face the proceedings before the Court below only in respect of the provisions under Protection of Women from Domestic Violence Act.

9.The Court below cannot try the petitioners herein for the substantive offences under the Indian Penal Code. Of course, it is open to the respondent herein to independently institute any private complaint, if she is so advised for trying the petitioners 1 and 2 under the provisions of Indian Penal Code.

10.With this liberty to the respondent, the present Criminal Original Petition is partly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj

To
The Judicial Magistrate,
Thirupathur.

Crl.O.P(MD)No.2260 of 2015

KK/SAR/05.02.2020/2P-2C/

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