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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.O.P.(MD)No.23118 of 2015 and

M.P.(MD)No.1 and 2 of 2015

1. Dharmalinga Nadar

2. Selvam

... Petitioners/Respondents 6 and 7

Vs.

Sindhu Maheswari

... Respondent/Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to M.C.No.8 of 2015 pending on the file of the Judicial Magistrate, Srivaikundam and quash the proceedings as against the petitioners herein.

For Petitioners : Mr.S.Deenadhayalan

For Respondents : Mr.C.T.Perumal

O R D E R

The petitioners are the in-laws of the respondent. The respondent filed M.C.No.8 of 2015 on the file of the Judicial Magistrate, Srivaikundam under Section 12 of the Central Act 43 of 2005. The petitioners are not part of the shared household. Therefore, the impugned proceedings cannot be maintained against petitioners herein.

2. The petitioners' 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:

<https://hcservices.ecourts.gov.in/hcservices/>' 35. The ultimate object of justice is to



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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. 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 petitioners are concerned. Of course it will go on against the other accused. The criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

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/ /2020

Sub Assistant Registrar (CS)

pmu

To:

The Judicial Magistrate, Srivaikundam.

+1 CC to MR.C.T.PERUMAL, Advocate (SR-103654[F] dated 05/12/2019)

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