



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.12.2019
CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

WEB COPY

Crl.O.P. (MD) No. 24560 of 2015
and
M.P. (MD) Nos. 1 and 2 of 2015

1. Shiponisha
2. Mathina Bewee
3. Nilofer Nisha ... Petitioners

Vs.

1. Hajara Begham
2. Noorul Husan
3. Noornadhia Harini
(R-2 & R-3 minors are rep. by
R-1, the mother of R-2 & R-3) ... Respondents

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records on the file of the Judicial Magistrate, Muthukulathoor in D.V.O.P.No.1 of 2015 and quash the same.

For Petitioners : Mr.S.C.Herold Singh
For R-1 : Mr.M.S.Jeyakarthish

O R D E R

The petitioners herein are shown as respondents in D.V.O.P.No.1 of 2015 on the file of the Judicial Magistrate, Mudhukulathur.

2. It was instituted by the first respondent herein. The petitioners are the in-laws of the first respondent. It is beyond dispute that the petitioners were not part of shared household.

3. 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:

'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. Therefore, the impugned proceedings stand quashed. The criminal original petition stands allowed. Since the case is of the year 2015, the learned trial Magistrate is requested to fast track the proceedings. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To:

1. The Judicial Magistrate, Muthukulathoor.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-103523[F] dated 05/12/2019)

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-103658[F] dated 05/12/2019)

Cr1.O.P. (MD) No.24560 of 2015

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