



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2019

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

CRL.O.P. (MD)No.4040 of 2015 and

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

WEB COPY

1. C.V.Nobel Thilak
2. Christhudhas
3. Vasantha
4. Anitha Brigit
5. Anand Prabhakar

... Petitioners/Respondents

Vs.

G.M.Rekha

... Respondent/Petitioner

PRAYER : Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records relating to the case in CrI.M.P.No.6784 of 2014 on the file of the Judicial Magistrate Court No.II, Kuzhithurai and quash the same.

For Petitioners : M/s.B.Brijesh Kishore

For Respondent : M/s.J.Anandhavalli

O R D E R

The learned counsel appearing for the petitioners withdraws this criminal original petition as far as the first petitioner is concerned.

2. Therefore, this criminal original petition stands dismissed as withdrawn as far as the first petitioner is concerned.

3. The first petitioner and the respondent herein got married on 24.03.2008 as per the Christian rites and customs. Subsequently, the first petitioner had filed D.O.P.No.263 of 2008 before the District Judge, Kanyakumari at Nagarcoil, for dissolving his marriage. The said petition was decreed on 04.07.2014. It appears that the said decree dissolving the marriage between the first petitioner and the respondent has become final.

4. The learned counsel appearing for the petitioners would claim that both of them have since got remarried. There are no definite inputs regarding this aspect of the matter.

5. Now the question arises as to whether the proceedings as per the provisions of the Protection of Women from Domestic Violence Act

<https://hcservices.ecourts.gov.in/hcservices/>



initiated by the respondent herein should be continued or not. As rightly pointed out by the learned counsel appearing for the respondent, the criminal miscellaneous petition was filed in the year October 2014 that is after the D.O.P. was disposed of. She would also specifically point out that in the order and decree made in D.O.P.No.263 of 2008, no finding has been given with regard to the household articles of the respondent herein. The relief was granted to the first petitioner based on his allegations as regards cruelty is said to have been committed by the respondent. In as much as the divorce decree is silent as regards the household articles of the respondent, I am of the view that the same will have to be fairly enquired into and decided in the impugned proceedings. But then, in the very nature of things, this is a matter between the respondent and the first petitioner herein. Petitioners 2 to 5 are only the in-laws. The second petitioner is the father-in-law, the third petitioner is the mother-in-law, the fourth petitioner is the sister-in-law and the fifth petitioner is the husband of the sister-in-law.

6. The Hon'ble Supreme Court has held that those who are not part of the shared household ought not to be made as respondents in the proceedings under the Protection of Women from Domestic Violence Act 2005. It is seen that petitioners 4 and 5 were not part of the shared household.

7. In this view of the matter, the proceedings stand quashed as far as petitioners 2 to 5 are concerned. It will go on as regards the first petitioner. The trial Court is directed to decide the issue on merits and in accordance with law.

8. It is made clear that quashing the impugned proceedings as far as the petitioners 2 to 5 are concerned, will not in any way dilute or water down the nature of allegations made by the respondent herein. Relief is granted solely on the ground that the marital tie between the first petitioner and the respondent has got snapped and both of them have gone their respective ways.

9. This criminal original petition stands allowed as far as petitioners 2 to 5 are concerned. The first petitioner is at liberty to raise all the contentions and the defences. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To
The Judicial Magistrate No.II,
Kuzhithurai.

+1 CC to M/s.J. ANANDHAVALLI, Advocate (SR-100828[F] dated 25/11/2019)

+1 CC to M/s.B. BRIJESH KISHORE, Advocate (SR-101044[F] dated 25/11/2019)

CRL.O.P. (MD) No.4040 of 2015 and
M.P. (MD) No.1 of 2015
22.11.2019

VB (05.06.2020) 3P 4C