



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.10.2019

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHANCrl.O.P.(MD)No.4697 of 2015 andM.P.(MD)No.1 and 2 of 2015

WEB COPY

1. Duraikumar
2. Rajagopal
3. Jeyakumar
4. Sivakamu
5. Deepa

... Petitioners/
Respondents 1 to 5

Vs.

Janaki @ Chitra

... 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.3 of 2014 on the file of the Judicial Magistrate No.IV, Thiruchirappalli (Now transferred to Special Mahila Court, Trichy and renumbered as M.C.No.63 of 2014) and quash the same.

For Petitioners : Mr.V.Illanchezian

For Respondent : No appearance.

O R D E R

The petitioner's counsel states that he would not press this Criminal Original petition as regards the first petitioner Duraikumar and the fourth petitioner Sivakamu. He only wants to press the case as regards petitioners 2, 3 and 5.

2. The first petitioner got married to the respondent herein in the year 2000. The respondent herein has filed M.C.No.3 of 2014 on the file of the Judicial Magistrate No.IV, Thiruchirappalli, under the provisions of the Protection of Women from Domestic Violence Act 2005.

3. The Court below has taken the same on file and issued notice to the petitioners herein. In this criminal original petition, even though the respondent has been served and she had engaged his counsel and his name is printed in the cause list, there is no appearance on her behalf.

4. The petitioner's counsel would point out that the marriage between the first petitioner and the respondent was dissolved as early as on 13.08.2004 in H.M.O.P.No.80 of 2004 on the file of the Sub Court, Thiruchirappalli. In fact in the impugned M.C. petition itself, there is a clear reference to the said order of divorce.



Even though this is an ex-parte order, till date the respondent herein has not taken any step for getting it set aside. The first petitioner after divorcing the respondent got married to the fifth petitioner herein.

5. I am of the view that the respondent would be justified in proceeding against the first petitioner and the fourth petitioner. There is absolutely no justification or basis for proceeding against the second petitioner/father-in-law of the respondent, third petitioner/brother-in-law of the respondent and the fifth petitioner who is the wife of the first petitioner herein.

6. In this view of the matter, the impugned proceedings stand quashed as far as petitioners 2, 3 and 5 are concerned. M.C.No.3 of 2014 on the file of the Judicial Magistrate No.IV, Thiruchirappalli (Now transferred to Special Mahila Court, Trichy and renumbered as M.C.No.63 of 2014) will continue against petitioners 1 and 4. Since it is more than five years old, the learned trial Magistrate is directed to conclude the same on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order.

7. The Criminal Original petition stands allowed on these terms. However, the personal appearance of the fourth petitioner Sivakamu before the Court below stands dispensed with.

8. The learned trial Magistrate shall insist on the personal appearance of the fourth petitioner only when it is absolutely necessary and imperative. On all other occasions, the fourth petitioner can be represented through her counsel. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

To:

1. The Judicial Magistrate No.IV,
Thiruchirappalli.

2. The Judge,
Special Mahila Court, Trichy.



3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V. ILLANCHEZIAN, Advocate (SR-91082[F] dated
03/10/2019)

Crl.O.P.(MD)No.4697 of 2015

01.10.2019

AP (19.03.2020) 3P 5C