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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD) No.13415 of 2019

and

Crl.M.P.(MD).Nos.8227 and 8228 of 2019

1.Deepak Chandrakumar
2.Kasthuri
3.Jeeyaseeli
4.Ashock Babu
5.Geetha
6.Anitha ... Petitioners/Respondents Nos.1 to 6

Vs.

Nevatha ...Respondent/Petitioner

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the petition in D.V.O.P.No.7 of 2016 filed under Protection of Women from Domestic Violence Act, 2005 before the Judicial Magistrate, Kodaikanal and quash the same.

For Petitioners : Mr.S.Ramasamy

For Respondent : Mr.V.Antony Santhosh

ORDER

This Criminal Original Petition has been filed to quash the proceedings in D.V.O.P.No.7 of 2016, filed by the respondent herein, pending on the file of the Judicial Magistrate, Kodaikanal .

2.The first petitioner is the husband of the respondent and the other petitioners are in-laws of the respondent and the marriage between A1/**Deepak Chandrakumar** and the respondent Viz.,**Nevatha** was solemnized on **07.02.2016**. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home. Under this circumstance, the respondent herein filed a petition under Domestic Violence Act in D.V.O.P.No.7 of 2016 on the file of the Judicial Magistrate, Kodaikanal and implicated

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the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.O.P. No.7 of 2016 is pending for trial. At this stage, the petitioners herein who are the husband and in-laws of the respondent pray to quash the proceedings in D.V.O.P. No.7 of 2016.

3.Heard Mr.S.Ramasamy, learned counsel for the petitioners and Mr.V.Antony Sathish, learned counsel for the respondent.

4.It is seen that the relief sought for by the respondent in the domestic violence case with regard to residential rights, compensation, etc., can be made and claimed as against her husband, who is already a party in that case. The first petitioners herein is the husband and the petitioners 2 to 6 in-laws of the respondent and they are living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against these petitioners 2 to 6, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 2 to 6 against the respondent itself seems to be false. While that being so, there cannot be any act of any domestic violence as defined under Domestic Violence Act against the petitioners 2 to 6. In the absence of the same, the proceedings as against these petitioners 2 to 6 cannot be maintained and consequently, the petitioners 2 to 6 need not undergo the ordeal of facing a criminal trial.

5.In view of the above, this Court is not inclined to quash the proceedings in D.V.O.P.No.7 of 2016, on the file of the Judicial Magistrate, Kodaikanal, as against the first petitioner and insofar as petitioners 2 to 6 are concerned, the proceedings in D.V.O.P.No.7 of 2016, on the file of the Judicial Magistrate, Kodaikanal is hereby quashed on condition that, they shall ensure that the first petitioner/husband of the respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of D.V.O.P.No.7 of 2016, on the file of the Judicial Magistrate, Kodaikanal as *ad-interim* maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the respondent is entitled to withdraw the same.

6.Insofar as the first petitioner/husband of the respondent is concerned, since the impugned proceedings in D.V.O.P.No.7 of 2016 is pending from the year 2016 onwards, it would be appropriate to direct the trial Court to complete the trial within a period of six months from the date of receipt of copy of this order. The first petitioner/husband of the respondent is directed to appear before the trial Court on the next hearing date, failing which, the respondent is at liberty to approach this Court.

7. In the result, this Criminal Original Petition stands partly

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allowed. Consequently, connected miscellaneous petitions are closed.

8.Further, the personal appearance of the petitioners 2 to 6 are dispensed with and they shall be represented by a counsel after filing appropriate application. The petitioners 2 to 6 shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar(CS)

vsg

To:

The Judicial Magistrate,
Kodaikanal

+1 CC to M/s.S. RAMASAMY, Advocate (SR-100098[F] dated 21/11/2019)

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