



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.10.2019
CORAM:**

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

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**CRL.O.P. (MD)No.7508 of 2018
and
CRL.M.P. (MD)Nos.3558 & 3559 of 2018
and 6731 of 2019**

1. M.Brahadeesh
2. Thilagavathi
3. K.Mayathevar

... Petitioners / Accused Nos.1 to 3

Vs.

1. Indhuja
2. Minor Adaleru Thiran

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the private complaint in M.C.No.90 of 2015, on the file of the Additional Mahila Court, Madurai, for the offences under Section 12 of Domestic Violence Act, 2005 and quash the same, as illegal as against the petitioners.

For Petitioners : Mr.J.Pandi Dorai
For Respondents : Mr.N.Marimuthu

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in M.C.No.90 of 2015, on the file of the Additional Mahila Court, Madurai.

2. The second and third petitioners are in-laws of the first respondent and the marriage between the first petitioner and the first respondent Viz.,Indhuja was solemnized on 07.07.2014. Thereafter, due to matrimonial dispute, the first petitioner and the respondents were living separately. Under this circumstance, the respondents herein filed a petition under the Domestic Violence Act in M.C.No.90 of 2015, on the file of the Additional Mahila Court, Madurai and implicated the second and third petitioners as parties to the petition and sought action as against them under the Domestic Violence Act. The said M.C.No.90 of 2015, is pending for trial. At this stage, the petitioners herein pray to quash the proceedings in M.C.No.90 of 2015.



3. Heard Mr.J.Pandi Dorai, learned counsel, for the petitioners and Mr.N.Marimuthu, learned counsel, appearing for the respondents.

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

5. In view of the above, this Court is inclined to quash the proceedings in M.C.No.90 of 2015, on the file of the Additional Mahila Court, Madurai, insofar as the second and third petitioners are concerned, on condition that, they shall ensure that the first petitioner / husband of the first respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of M.C.No.90 of 2015, on the file of the Additional Mahila Court, Madurai, as *ad-interim* maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the first respondent is entitled to withdraw the same.

6. This Criminal Original Petition is dismissed, insofar as the first petitioner / husband of the first respondent is concerned. Since the impugned proceedings in M.C.No.90 of 2015, on the file of the Additional Mahila Court, Madurai, is pending from the year 2015 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 first respondent is directed to appear before the trial Court on the next hearing date, failing which, the respondents are at liberty to approach this Court.



7. In the result, this Criminal Original Petition stands partly-allowed. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Additional Mahila Court, Madurai.

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

+1 CC to Mr.N.MARIMUTHU, Advocate (SR-93752[F] dated 23/10/2019)

+1 CC to Mr.J.PANDI DORAI, Advocate (SR-94497[F] dated 25/10/2019)

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tsg

MK (08.11.2019) 3P 5C