



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) No.8981 of 2018

and

Crl.M.P. (MD) Nos.3931 and 3932 of 2018

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1.Anthony Ammal
2.Brdiget Villava Rayen
3.Bose @ Thomas Thambaiah Vrayan
4.Seprin Fernando ... Petitioners

Vs

Jeroshree ... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for records in Petition in D.V.C.No.07 of 2018 on the file of the Judicial Magistrate No.II, Thoothukudi, Thoothukudi District and quash the proceedings as against the petitioners herein initiated on the basis of the petition filed by the respondent.

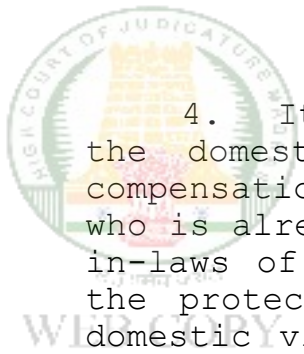
For Petitioners : Mr.A.Thiruvadikumar
For Respondent : No Appearance

O R D E R

This petition has been filed to quash the proceedings in D.V.C.No.07 of 2018 on the file of the Judicial Magistrate No.II, Thoothukudi as against the petitioners.

2. The petitioners are in-laws of the respondent and the marriage between Al/Germans Rozario and the respondent Viz.,Jeroshree was solemnized on 06.01.2010 and 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.C.No.07 of 2018 on the file of the Judicial Magistrate No.II, Thoothukudi and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.07 of 2018 is pending for trial. At this stage, the petitioners herein who are the in-laws of the respondent pray to quash the said proceedings.

3. Heard both sides and perused the materials available on records.



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 petitioners herein are only 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/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 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 these petitioners. In the absence of the same, the proceedings as against these petitioners cannot be maintained and consequently, the 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 D.V.C.No.07 of 2018 on the file of the Judicial Magistrate No.II, Thoothukudi insofar as these petitioners are concerned, on condition that, they shall ensure that the Al/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.C.No.07 of 2018 on the file of the Judicial Magistrate No.II, Thoothukudi, 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 Al/husband of the respondent is concerned, since the impugned proceedings in D.V.C.No.07 of 2018 is pending from the year 2018 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. Al/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 allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar (CS)

Arul



To

The Judicial Magistrate No.II, Thoothukudi.

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Order made in

CRL.O.P (MD) No.8981 of 2018

01.11.2019

VB(18.11.2019) 3P 2C