



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.8253 of 2018

and

Crl.M.P. (MD)Nos.3709, 3710 of 2018 & 5755 of 2019

1.Thomas Marshal

2.Micheal

3.Ramesh

...Petitioners /Respondents 2 to 4

-Vs-

1.Rosy

2. Alpino Fernando (Minor)

3. Lancy Fernando (Minor)

Respondents 2 and 3 are represented
through the Guardian and their
Mother 1st Respondent

... Respondents /Petitioners

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to admit this petition on file and call for the records in D.V.O.P.No.4 of 2017 on the file of the learned Judicial Magistrate, Tiruchendur and quash the same and against the petitioners counsel.

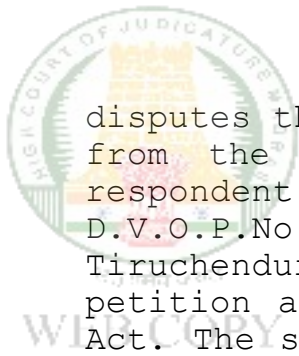
For Petitioners : Mr.Antony S.Prabahar

For R1 : Mr.D.S.Haroon Rasheed

O R D E R

This Criminal Original petition has been filed to quash the proceedings in D.V.O.P.No.4 of 2017 on the file of the learned Judicial Magistrate, Tiruchendur.

2.The petitioners are in-laws of the first respondent and the marriage between A1/Albert and the first respondent Viz.,Rosy was solemnized on 08.12.2008. Thereafter, due to matrimonial



disputes the first respondent and her husband were living separately from the matrimonial home. Under this circumstance, the first respondent herein filed a petition under Domestic Violence Act in D.V.O.P.No.4 of 2017 on the file of the learned Judicial Magistrate, Tiruchendur and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.O.P. No.4 of 2017 is pending for trial. At this stage, the petitioners herein, who are the in-laws of the first respondent, pray to quash the proceedings in D.V.O.P. No.4 of 2017.

3.Heard the learned counsel for the petitioners and the learned counsel for the respondents.

4.It is seen that the relief sought for by the first 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 first respondent and they are living separately. As such, the protection order sought for by the first 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 first 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.O.P.No.4 of 2017 on the file of the learned Judicial Magistrate, Tiruchendur, insofar as these petitioners are concerned, on condition that, they shall ensure that the A1/ 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 D.V.O.P.No.4 of 2017 on the file of the learned Judicial Magistrate, Tiruchendur, 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.Insofar as A1/husband of the first respondent is concerned, since the impugned proceedings in D.V.O.P. No.4 of 2017 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. A1/husband of the first respondent is directed to appear before the trial Court on the next hearing date, failing which, the first respondent is at liberty to approach this Court.



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

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

Is

To

The Judicial Magistrate,
Tiruchendur.

+1 CC to M/s.D.S. HAROON RASHEED, Advocate (SR-95643[F] dated
01/11/2019)

+1 CC to M/s.ANTONY.S.PRABHAHAR, Advocate (SR-95714[F] dated
04/11/2019)

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JMN(14.11.2019) 3P : 4C