



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.8274 of 2018

and

Crl.M.P.(MD)No.3718 of 2018

WEB COPY

1.S.Kumaresan

2.K.Sakthi

... Petitioners/Respondents 3 & 4

-Vs-

1. Smt.Vimala

2. Minor Yohitha

3. Minor.Sanmitha

Repondents 2&3 are Rep. by their

Natural Guardian and Next Friend

Through 1st Respondent)

... Respondents/Petitioners

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertains to the private complaint in D.V.A.O.P.No. 1 of 2018 on the file of Judicial Magistrate, Srivilliputhur and quash the same, by allowing this Crl.OP.

For Petitioners

: Mr.M.Thirunavukkarasu

For Respondents

: Mr.R.Karunanidhi

O R D E R

This Criminal Original petition has been filed to quash the proceedings in D.V.A.O.P.No. 1 of 2018 on the file of the learned Judicial Magistrate, Srivilliputhur.

2.The petitioners are in-laws of the first respondent and the marriage between A1/**Sadaiyandi** and the first respondent Viz.,**Vimala** was solemnized on **15.05.2005**. 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.A.O.P.No. 1 of 2018 on the file of the learned Judicial Magistrate, Srivilliputhur and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.A.O.P.No. 1 of 2018 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.A.O.P.No. 1 of 2018.



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.A.O.P.No. 1 of 2018 on the file of the learned Judicial Magistrate, Srivilliputhur, 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.A.O.P.No. 1 of 2018 on the file of the learned Judicial Magistrate, Srivilliputhur, 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.A.O.P.No. 1 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. 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 petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Judicial Magistrate,
Srivilliputhur.

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Copy to: The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate SR-95767.

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