



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) No.9546 of 2018

and

CrI.M.P. (MD) No.4237 of 2018

1.Karupiah @ Mohan

2.Selvi

... Petitioners/Respondents No.2 and 3

Vs

1.Manju @ Mariammal

2.Minor.Kabilesh

... Respondents/Petitioners 1 and 2

(represented by its mother and next friend 1st respondent herein)

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to D.V.O.P.No.1 of 2018 on the file of the Judicial Magistrate, Sivagiri filed by the respondent and quash the same as against the petitioners concerned as illegal.

For Petitioners : Mr.F.X.Eugene

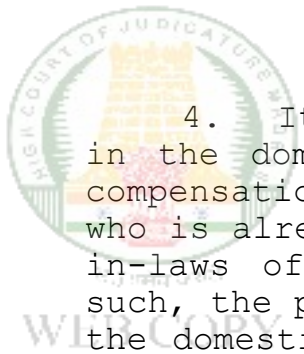
For Respondents : Mr.M.S.Jeya Karthick

O R D E R

This petition has been filed to quash the proceedings in D.V.O.P.No.1 of 2018 on the file of the Judicial Magistrate, Sivagiri as against the petitioners.

2. The petitioners are in-laws of the 1st respondent and the marriage between Al/Saravanan Rozario and the 1st respondent Viz., Manju @ Mariammal was solemnized on 30.05.2009 and due to matrimonial disputes, the 1st respondent and her husband were living separately from the matrimonial home. Under this circumstance, the 1st respondent herein filed a petition under Domestic Violence Act in D.V.O.P.No.1 of 2018 on the file of the Judicial Magistrate, Sivagiri 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.1 of 2018 is pending for trial. At this stage, the petitioners herein who are the in-laws of the 1st 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 1st 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 1st respondent and they are living separately. As such, the protection order sought for by the 1st 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 1st 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.1 of 2018 on the file of the Judicial Magistrate, Sivagiri insofar as these petitioners are concerned, on condition that, they shall ensure that the A1/husband of the 1st 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.1 of 2018 on the file of the Judicial Magistrate, Sivagiri, as *ad-interim* maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the 1st respondent is entitled to withdraw the same.

6. Insofar as A1/husband of the 1st respondent is concerned, since the impugned proceedings in D.V.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 1st 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 petition is closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar (CS)



Arul

To

The Judicial Magistrate, Sivagiri

+1 CC to M/s.M.S. JEYAKARTHIK, Advocate (SR-96255[F] dated 06/11/2019)

+1 CC to M/s.F.X. EUGENE, Advocate (SR-96413[F] dated 06/11/2019)

CRL.O.P (MD) No.9546 of 2018

05.11.2019

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