



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD) No.14364 of 2019

and

Crl.MP(MD)Nos.8671, 9802 & 9803 of 2019

1.V.Azhagu

2.Veeralakshmi

3.Kousalyaparathi

4.S.Malmurugan

... Petitioners/Respondents 2 to 5

Vs.

P.Abinayalakshmi

... Respondent/Petitioner

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertains to D.V.C.No.15 of 2019 on the file of the learned Judicial Magistrate Court, Rajapalayam, and quash the same in so far as the petitioners are concern by allowing this Criminal Original Petition.

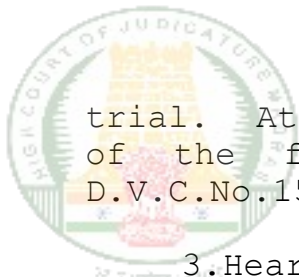
For Petitioners : Mr.M.Thirunavukkarasu

For Respondent : Mr.T.Lajapathyi Roy

ORDER

This petition has been filed to quash the proceedings in D.V.C.No.15 of 2019 on the file of the learned Judicial Magistrate Court, Rajapalayam.

2.The petitioners are in-laws of the respondent and the marriage between A1/Saravanaprakash and the first respondent Viz.,P.Abinayalakshmi was solemnized on 29.08.2014. Thereafter, due to matrimonial disputes the 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.C.No.15 of 2019 on the file of the learned Judicial Magistrate Court, Rajapalayam, 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.15 of 2019 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.C.No.15 of 2019.

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

4.It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **Crl.A.No.579 of 2019** dated **02.04.2019** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr.**, as follows:-

" 12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13.In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

5. Recently, the Hon'ble Supreme Court of India held in respect of the very same issue in **Crl.A.No.1572 of 2019 - Central Bureau of Investigation Vs. Arvind Khanna**, wherein, it has been held as follows:

"19.After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the



respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for."

- The above judgment is squarely application to this case and as such, the points raised by the petitioners cannot be considered by this Court under Section 482 Cr.P.C.

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6. In view of the above discussion, this Court is not inclined to quash the proceedings in D.V.C.No.15 of 2019 on the file of the learned Judicial Magistrate Court, Rajapalayam. Hence this Criminal Original Petition stands dismissed. Consequently, Crl.M.P(MD) No.8671 of 2019 stands allowed and Crl.M.P(MD) Nos.9802 & 9803 of 2019 are closed. However, the trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.

7. Further, the personal appearance of the petitioners is dispensed with and they shall be represented by a counsel after filing appropriate application. The petitioners shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

Sd/-

Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar

dss

To
The Judicial Magistrate,
Rajapalayam.

+1 CC to M/s.M. THIRUNAVUKKARASU, Advocate SR-99601
+1 CC to M/s.T. LAJAPATHI ROY, Advocate SR-99662

Crl.O.P.(MD) No.14364 of 2019
and

Crl.MP(MD) Nos.8671, 9802 & 9803 of 2019
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dss

JM/09.12.2019/3P/4C

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