



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) No. 14243 of 2019

and

CrI.M.P. (MD) Nos. 8628 & 8630 of 2019

WEB COPY

1. T.B. Manikandan

2. T.B. Santha

... Petitioners

Vs

M. Gayatri

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records connected with the case in DVC No.43 of 2019, on the file of the learned Judicial Magistrate, Additional Mahila Court, Thiruchirappalli and quash the same.

For Petitioners : Mr.M.A. Gouthaman

For Respondent : M/s.T. Banumathy

O R D E R

This petition has been filed to quash the proceedings in DVC No.43 of 2019, on the file of the learned Judicial Magistrate, Additional Mahila Court, Thiruchirappalli, for an alleged offence under Sections 12, 20 & 21 of the Protection of Women from Domestic Violence Act, 2005.

2. The marriage between **A1/T.B. Manikandan** and the respondent/**M. Gayatri** was solemnized on **09.11.2014**. The first petitioner is the husband and the second petitioner is the in-law of the respondent. Thereafter, due to matrimonial disputes the first respondent and her husband were living separately from the matrimonial home. Under this circumstances, the respondent herein filed a petition under matrimonial case in DVC No. 43 of 2019 on the file of the learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said DVOP No. 43 of 2019 is pending for trial. At this stage, the petitioners pray to quash the proceedings in DVC No. 43 of 2019.

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

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:-

<https://hcservices.ecourts.gov.in/hcservices/>



" 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.

In view of the above citation, the DVC proceedings as against the petitioners cannot be quashed.

5. Accordingly, this criminal original petition is dismissed with the liberty to the petitioners to raise all the grounds before the trial Court. Consequently, connected miscellaneous petitions are also dismissed. However, the learned Judicial Magistrate, Additional Mahila Court, Thiruchirappalli, is directed to complete the trial and dispose of the case, within a period of Two Months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (RECORD)

// True Copy //

Sub Assistant Registrar (CS)

ksa
To

The Judicial Magistrate,
Additional Mahila Court,
Thiruchirappalli .

+1 CC to M/s.T. BANUMATHY, Advocate (SR-97970[F] dated 13/11/2019
Order made in

CRL.O.P (MD) No.14243 of 2019

12.11.2019