



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2019

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)Nos.19046, 20107 of 2018 and 2574 of 2019
and
Crl.M.P. (MD)Nos.8510 , 8511, 9280, 9281 of 2018 & 1412 of 2019

Issathul Kareema ... Petitioner/A3 in Crl.O.P. (MD)No.19046/2018
Rahmathullah ... Petitioner/A2 in Crl.O.P. (MD)No.20107/2018
Mohammed JaffarAli ... Petitioner/A1 in Crl.O.P. (MD)No.2574/2019

-Vs-

1. Fathima Shaffrin
2. Minor.M.Hanna Shanas
(Minor represented through
her natural guardian first respondent)
... Respondents in all Crl.O.Ps

Common Prayer: Criminal Original petitions filed under Section 482 of Code of Criminal Procedure, to call for the records relating to D.V.C. No.16 of 2018 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram, and quash the same.

In all Cases:

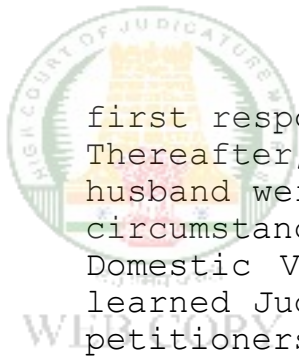
For Petitioners : Mr.M.Guruprasad

For Respondents : Mr.C.Kishore

C O M M O N O R D E R

This Criminal Original Petitions have been filed to quash the proceedings in D.V.C. No.16 of 2018 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram.

2.The petitioner in Crl.O.P. (MD)Nos.19046 & 20107 of 2018 are in-laws of the first respondent and the marriage between the petitioner in Crl.O.P. (MD)No.2754 of 2019/Mohammed Jaffar and the



first respondent Viz., Fathima Shaffrin was solemnized on 03.05.2015. 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.C. No.16 of 2018 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram 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.16 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.C.No.16 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 in Crl.O.P.(MD) Nos.19046, 20107 of 2018 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 the petitioner in Crl.O.P.(MD) Nos.19046, 20107 of 2018, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners in Crl.O.P.(MD) Nos.19046, 20107 of 2018 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 the petitioner Crl.O.P.(MD) Nos.19046, 20107 of 2018. In the absence of the same, the proceedings as against these petitioners cannot be maintained and consequently, the petitioner Crl.O.P.(MD) Nos.19046, 20107 of 2018 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.C. No.16 of 2018 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram, insofar as the petitioner Crl.O.P.(MD) Nos.19046, 20107 of 2018 are concerned, on condition that, they shall ensure that the petitioner in Crl.O.P.(MD) No.2574 of 2019/A1/husband of the first respondent shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) before 5th of every English Calendar month to the credit of D.V.C. No.16 of 2018 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram, 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 petitioner in Crl.O.P.(MD) No.2574 of 2019/A1/husband of the first respondent is concerned, since the impugned proceedings in D.V.C.No.16 of 2018 is pending from the year 2018



complete the trial within a period of three months from the date of receipt of copy of this order. The petitioner in Crl.O.P.(MD)No.2574 of 2019/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, the Criminal Original Petitions in Crl.O.P. (MD)Nos.19046, 20107 of 2018 stand allowed and Crl.O.P.(MD)No.2574 of 2019 stands dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate No.I,
Padmanabhapuram.

2.The Chief Judicial Magistrate, Kanyakumari District at Nagercoil.

+2 CC to M/s.M.Guruprasad, Advocate (SR-85247 & 85249 [F] dated 04/09/2019)

+1 CC to M/s.C.KISHORE, Advocate (SR-84983[F] dated 04/09/2019)

+3 CC to M/s.P. SAMUVELGUNASINGH, Advocate (SR-85170 to 85172 [F] dated 04/09/2019)

Crl.O.P. (MD)Nos.19046, 20107 of 2018
and 2574 of 2019
03.09.2019

Ls

JMN(23.09.2019) 3P : 9C