



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2019

CORAM:

WEB COPY

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

Crl.O.P. (MD).No. 15100 of 2019

and

Crl.M.P. No. 9027 & 9028 of 2019

1. Kasthuri
2. Devaki
3. Sabari Saranya
- 4.Selvakumar

... Petitioners/Respondents 2 to 5

Vs.

1. Amuthapriya
 2. Minor Ubasana
- Reb by Mother

... Respondents/ Petitioners

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to DVC No. 9 of 2019 on the file of the Judicial Magistrate No.II, Virudhunagar and quash the same.

For Petitioners : Mr.J. Lawrance

For Respondent-1 : Mr. M. Jothibas

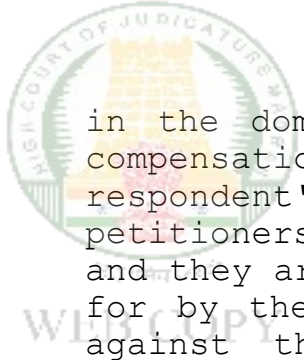
O R D E R

This Criminal Original Petition has been filed to quash the proceedings in DVC No. 9 of 2019, filed by the first respondent herein, pending on the file of the learned Judicial Magistrate No.II, Virudhunagar.

2. The marriage between **A1/Santhoshkumar** and the first respondent/**Amuthapriya** was solemnized on **04.09.2016**. The petitioners are in-laws of the first 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. 9 of 2019 on the file of the learned Judicial Magistrate No.II, Virudhunagar and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said DVC No. 9 of 2019 is pending for trial. At this stage, the petitioners pray to quash the proceedings in DVC No. 9 of 2019.

3. Reviewed the material documents available on record.

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 the first respondent's husband, who is already a party in that case. The petitioners herein are only in-laws and relations of the 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 petitioners, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners against the 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 petitioners. In the absence of the same, the proceedings as against the 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 DVC No. 9 of 2019, on the file of the learned Judicial Magistrate No. II, Virudhunagar, insofar as the petitioners concerned, on condition that, they shall ensure that the A1/husband of the respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of DVC No. 9 of 2019, on the file of the learned Judicial Magistrate No. II, Virudhunagar, 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. In view of the above, this Court is inclined to quash the proceedings in DVC No. 9 of 2019, on the file of the learned Judicial Magistrate No. II, Virudhunagar, insofar as these petitioners are concerned. However, the learned Judicial Magistrate No. II, Virudhunagar is directed to dispose the DVC No. 9 of 2019, 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 petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2020

Sub Assistant Registrar (CS)



To

The Judicial Magistrate No.II, Virudhunagar.

+1 CC to M/s.G.M. LAW OFFICE, Advocate (SR-102158[F] dated 28/11/2019)

+1 CC to Mr.J. LAWRANCE, Advocate (SR-102446[F] dated 29/11/2019)

Cr1.O.P.(MD).No.15100 of 2019
28.11.2019

VB(27.01.2020) 3P 4C