



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.11039 of 2018

and

Crl.M.P. (MD)Nos.4997 and 4998 of 2018

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1.V.Malaichamy
2.Valliyappan
3.Nallammal
4.Pachaimuthu
5.Chellamani
6.Shanthi

...Petitioners/Respondents

-Vs-

Indra

... Respondent/Petitioner

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in D.V.C.No.11 of 2018 on the file of the District Munsif Cum Judicial Magistrate, Thirupathur and quash the same.

For Petitioners : Mr.D.Sadiq Raja
For Respondent : Mr.T.Lajapathi Roy

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.11 of 2018 on the file of the learned District Munsif Cum Judicial Magistrate, Thirupathur, as against the petitioners.

2.The first petitioner is husband and the petitioners 2 to 6 are in-laws of the respondent. Due to matrimonial disputes the respondent and her husband/first petitioner were living separately from the matrimonial home. Under this circumstance, the respondent herein filed a petition under Domestic Violence Act in D.V.C.No.11 of 2018 on the file of the learned District Munsif Cum Judicial Magistrate, Thirupathur, 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.11 of 2018 is pending for trial. At this stage, the first petitioner, who is the husband and the petitioners 2 to 6 herein, who are the in-laws of the respondent, pray to quash the proceedings in D.V.C.No.11 of 2018.

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

4.It is seen that the relief sought for by the respondent in the domestic violence case with regard to residential rights, compensation, etc., can be made and claimed as against her



husband/first petitioner, who is already a party in that case. Hence, this Criminal Original Petition is dismissed as far as the first petitioner/husband is concerned. The petitioners 2 to 6 herein are only in-laws of the respondent and they are living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against the petitioners 2 to 6/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 2 to 6 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 2 to 6. In the absence of the same, the proceedings as against the petitioners 2 to 6 cannot be maintained and consequently, the petitioners 2 to 6 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.11 of 2018 on the file of the learned District Munsif Cum Judicial Magistrate, Thirupathur, insofar as the petitioners 2 to 6 are concerned, on condition that, they shall ensure that the first petitioner/ 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 in D.V.C.No.11 of 2018 pending on the file of the learned District Munsif Cum Judicial Magistrate, Thirupathur, as *ad-interim* maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the respondent is entitled to withdraw the same.

6. Insofar as the first petitioner/husband of the respondent is concerned, this Petition is dismissed. Since the impugned proceedings in D.V.C.No.11 of 2018, is pending from the year of 2018, 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. The first petitioner/husband of the 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 is partly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)



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1.The District Munsif Cum Judicial Magistrate,
Thirupathur.

2.The Section Officer,-2 copies
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.T. LAJAPATHY ROY, Advocate (SR-97966[F] dated
13/11/2019)

+1 CC to Mr.D. SADIQ RAJA, Advocate (SR-98321[F] dated 14/11/2019
)

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