



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2019

CORAM:

THE HONOURABLE **MR. JUSTICE A.D.JAGADISH CHANDIRA**

Crl.O.P.(MD)No.13142 of 2018

and

Crl.M.P.(MD)Nos.5896 & 5897 of 2018

WEB COPY

- 1.Iyyappan
- 2.Sivakami
- 3.Thangam
- 4.Indira
- 5.Manju
- 6.Murugan

... Petitioners/Responents 1 to 6

Vs.

Mageshwari

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to call for the records in D.V.C.No.15 of 2018 on the file of the Judicial Magistrate No.II, Nagercoil, Kanyakumari District and quash the same.

For Petitioners : Mrs.S.Ragaventhre

For Respondent : Mr.R.Murugan

O R D E R

This petition has been filed to quash the proceedings in D.V.C.No.15 of 2018 on the file of the Judicial Magistrate No.II, Nagercoil, Kanyakumari District.

2.The learned counsel appearing for the petitioners would submit that the first petitioner is the husband of the respondent and the second petitioner is the mother-in-law of the respondent and the petitioners 3 to 5 are the sisters-in-law and the fifth petitioner is brother-in-law of the respondent. He would further submit that due to matrimonial dispute, the respondent has filed a petition in D.V.C.No.15 of 2018 and that the respondent deserted the first petitioner and left the matrimonial house and the respondent now filed the present D.V.O.P.

3.In the considered view of this Court, the grounds raised by the petitioners are purely factual in nature. The said grounds can be raised only before the Court below, in the course of proceedings and the Court below shall consider the same on its own merits and in accordance with law.

4.Therefore, there is no merit in this petition. Hence, this Criminal Original Petition is dismissed.



5.At this juncture, the learned Counsel for the petitioners submitted that the presence of the petitioners before the Trial Court may be dispensed with and also prayed for a speedy trial.

6.Accepting the said submission, the presence of the petitioners Nos.2 to 6 before the trial Court shall be dispensed with on condition that they shall be duly and properly represented by a counsel on all hearing dates and that they will make themselves available before the Court on the day of passing final orders. The first petitioner shall appear before the Court below on all hearing date, without fail.

7.The petitioners Nos.2 to 6 are further directed to give an undertaking in the form of affidavit that the Counsel representing them will cross examine the complainant and his witnesses on the day they are examined in chief. The petitioners Nos.2 to 6 shall not dispute the identity of the witnesses. The petitioners Nos.2 to 6 shall appear before the Court in the event if their presence is insisted by the trial judge for the purpose of Mediation. If the petitioners Nos.2 to 6 adopt any dilatory tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners Nos.2 to 6 in accordance with the judgment of Supreme Court of India, ***in State of Uttar Pradesh Vs. Shambunath Singh***, reported in **2001 (4) SCC 667**. The learned Judicial Magistrate No.II, Nagercoil, Kanyakumari District shall complete the trial in D.V.C.No.15 of 2018 and pass final orders, within a period of three months from the date of next hearing. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

gns

To

The Judicial Magistrate No.II,
Nagercoil, Kanyakumari District.

+1 CC to M/s.R.MURUGAN, Advocate (SR-103351[F] dated 04/12/2019)

+1 CC to M/s.K.PRABHU, Advocate (SR-103661[F] dated 05/12/2019)

CrI.O.P. (MD) No.13142 of 2018
04.12.2019

KK/SAR/26.12.2019/2P-4C/