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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.13793 of 2018

and

Crl.M.P. (MD) Nos.6205 & 6206 of 2018

1.G.Balasubramanian

2.S.Ganesan

3.G.Ganabathiammal

4.Namburajan

5.P.Kalanjiam

6.D.Latha Pragathambal

7.P.Indhirani

: Petitioners/Respondents

Vs.

1.B.Lalitha

2.B.Sri Geethapriaya

: Respondents/Petitioner

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to D.V.O.P.No.11 of 2016 on the file of the Additional District Munsif cum Judicial Magistrate, Manamadurai and quash the same as illegal.

For Petitioners

: Mr.G.Thiruvarutselvan

For Respondents

: Mr.A.V.Rajasekaran

ORDER

This Criminal Original Petition has been filed to quash the proceedings in D.V.O.P.No.11 of 2016 on the file of the learned Additional District Munsif cum Judicial Magistrate, Manamadurai.

2.The learned counsel appearing for the petitioner would submit that the petitioners Nos.4 to 7 are, respectively brother-in-law, uncle, wife of the fourth respondent and the neighbour to the first respondent herein and that they have not lived under the same roof and they have not domestic relationship with the first petitioner and thereby, proceedings as against them, has to be quashed. He

<https://hccservices.courts.gov.in/hccservices> submit that there is no specific allegations as



against the second and third petitioners, who are father-in-law and mother-in-law of the first respondent. In support of his contention, he relied upon a judgment of this Court, in a case of **Santineer Vincent Rajkumar and one another Vs. R.Rejitha**, reported in **2017(5) CTC 515**.

3.I have gone through the materials. As far as the petitioners Nos.4 to 7 are concerned, they have not lived under the same roof and they have no domestic relationship with the first petitioner and the first respondent, as stated in the Section 2(f) of the Domestic Violence Act. Thereby, the proceedings in D.V.O.P.No.11 of 2016 on the file of the learned Additional District Munsif cum Judicial Magistrate, Manamadurai, is quashed as far as the petitioners Nos.4 to 7 are concerned.

4.In respect of the second and third petitioners, the learned counsel appearing for the petitioners would pray that their presence may be dispensed with and a direction may be issued to the Court below to complete the trial.

5.In view of the above, the presence of the second and third petitioners before the trial Court is 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 order and whenever insisted by the trial Court. The first petitioner herein shall attend all hearing dates before the Court below, without fail.

6.The second and third petitioners are further directed to give an undertaking in the form of affidavit that the Counsel representing them will duly cooperate for the progress of trial and will not take any adjournment and he will cross examine the respondents and their witnesses on the day they are examined in chief. The second and third petitioners shall not dispute the identity of the witnesses. The second and third petitioners shall appear before the Court in the event if their presence is insisted by the trial judge for the purpose of Mediation or progress of trial. If the second and third petitioner adopt any dilatory tactics, it is open to the Trial Court to insist for their appearance and deal with the second and third petitioner 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 Additional District Munsif cum Judicial Magistrate, Manamadurai, is directed to complete the trial in D.V.O.P.No.11 of 2016 and pass orders, within a period of four months from the next date of hearing.



7. With the above observations and direction, this Criminal Original Petition is partly allowed. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS)

// True Copy //

Sub Assistant Registrar (CS)

gns

To

The Additional District Munsif cum Judicial Magistrate,
Manamadurai.

+1 CC to M/s.G.THIRUVARUTSELVAN, Advocate (SR-103621[F] dated
05/12/2019)

Cr1.O.P. (MD) No.13793 of 2018
04.12.2019

avs (CO)

TR (02.01.2020) 3P 3C