



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.10.2019**

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRL.O.P (MD) No. 14945 of 2018

and

CRL.M.P (MD) Nos. 6616 & 6617 of 2018

WEB COPY

1. Abubekkar
2. Hairunnesha
3. Hassan Banu
4. Sheema
5. Ahmed Ansari
6. Mohamed Ali

... Petitioners/Respondents-2 to 5

Vs.

Syed Shifana

...Respondent/Petitioner

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in DVOP No. 1 of 2016 on the file of the learned Judicial Magistrate, Vallioor and quash the same in so far as the petitioners herein are concerned.

For Petitioners : Mr.S.P. Maharajan
For Respondent : Mr. S. Malaikani

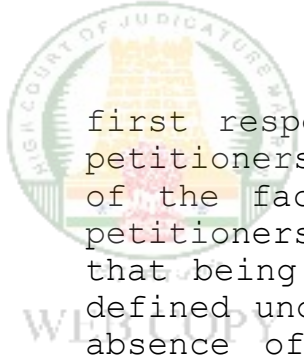
O R D E R

This Criminal Original Petition has been filed to quash the proceedings in DVOP No.1 of 2016 on the file of the learned Judicial Magistrate, Vallioor.

2. The marriage between **Uthuman Kani/A1** and the respondent/**Syed Shifana** was solmnized on **27.05.2012**. The petitioners are in-laws of the respondent. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home. Under this circumstances, the respondent herein filed a petition under matrimonial case in DVOP No. 1 of 2016 on the file of the learned Judicial Magistrate, Vallioor and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said DVOP No. 1 of 2016 is pending for trial. At this stage, the petitioners pray to quash the proceedings in DVOP No. 1 of 2016.

3.Perused the material documents available on record.

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 the respondent's husband, who is already a party in that case. The petitioners herein are only in-laws 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 DVOP No. 1 of 2016, on the file of the learned Judicial Magistrate, Vallioor, insofar as the petitioners concerned, on condition that, they shall ensure that the Al/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 DVOP No.1 of 2016, on the file of the learned Judicial Magistrate, Vallioor, 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 DVOP No.1 of 2016, on the file of the learned Judicial Magistrate, Vallioor, insofar as these petitioners are concerned. Since the impugned proceedings in DVOP No. 1 of 2016 is pending from the year 2016 onwards, 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. Al/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 stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar (CS)

ksa

To
The Judicial Magistrate,
Vallioor.