



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P(MD)No.11826 of 2017

and

CRL.M.P(MD)No.8143 of 2017

1. Balamurugan
2. Alagirisamy
3. Alagumani
4. Indurani
Nos.1 to 4

...Petitioners / Accused

Vs.

Mariammal @ Maheswari

...Respondent / Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the above complaint in D.V.C.No.6 of 2017, on the file of the learned Judicial Magistrate No.II, Kovilpatti and quash the same.

For Petitioners : Mr.S.Ponsenthilkumaran
For Respondent : M/s.Lakshmi Gopinathan for
M/s.Polax Legal Solution

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in D.V.C.No.6 of 2017, on the file of the learned Judicial Magistrate No.II, Kovilpatti.

2. The first Petitioner is the husband, second Petitioner is the father-in-law, third petitioner is the mother-in-law, fourth petitioner is the sister-in-law of the respondent.

3. It is seen from the records that the petitioners 2 to 4 are living separately and the respondent is- living separately and therefore, no domestic violence can be attributed as against the petitioners 2 to 4. The respondent has not made any specific allegations against the petitioners 2 to 4 except for certain general allegations and certain specific averments have been made by the respondent only against the 1st petitioner. Even in the absence of a domestic relationship with the respondent, the petitioners 2 to 4 have been roped in a domestic violence petition.

4. Heard the learned counsel for the Petitioners as well as the learned counsel appearing for the respondent.



5. In the considered view of this Court, the 1st petitioner has to necessarily face the proceedings before the Court below. In-so-far-as the petitioners 2 to 4 are concerned, the entire proceedings is an abuse of process of Court and the same requires interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

6. In the result, the proceedings in D.V.C.No.6 of 2017, on the file of the learned Judicial Magistrate No.II, Kovilpatti, is quashed insofar as the 2nd to 4th petitioners are concerned. Insofar as the first Petitioner/husband is concerned, this Petition stands dismissed. It is left open to the respondent to proceed further to prosecute the domestic violence petition as against the husband / 1st petitioner.

7. This Criminal Original Petition is partly allowed and there shall be a direction to the learned Judicial Magistrate No.II, Kovilpatti, to dispose of the proceedings in D.V.C.No.6 of 2017, as against the husband/1st petitioner within a period of three months from the date of receipt of copy of this order. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

tsg
To

1. The Judicial Magistrate No.II, Kovilpatti.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate (SR-92574[F] dated 17/10/2019)

+1 CC to M/s.S.PON SENTHIL KUMARAN, Advocate (SR-92916[F] dated 18/10/2019)

CRL.O.P(MD)No.11826 of 2017

17.10.2019

KK/SAR/04.11.2019/2P-5C/