



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.10.2019

CORAM:

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

**CRL.O.P. (MD)Nos.13639 of 2017 & 3270 of 2018
and**

CRL.M.P. (MD)Nos.9169, 9170 of 2017 & 1528, 1529 of 2018

Crl.O.P. (MD)No.13639 of 2017

1.Boopathi

2.Komalam : Petitioners/Respondents 2 to 3

Vs.

1.Nageshwari @ Asha

2.Minor Vishal

(Represented by the mother and guardian/first respondent)

3.Kameshkumar : Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the criminal proceedings in D.V.O.P.No.2 of 2017 on the file of the learned Judicial Magistrate No.I, Sivaganga and quash the same as far as these petitioners are concerned.

Crl.O.P. (MD)No.3270 of 2018

Kameshkumar ... Petitioner

Vs.

1.Nageshwari @ Asha

2.Minor Vishal

(Represented by the mother and guardian/first respondent)

3.Boopathi

4.Komalam ...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the criminal proceedings in D.V.O.P.No.2 of 2017 on the file of the learned Judicial Magistrate No.I, Sivaganga and quash the same as far as the petitioner is concerned.



For Petitioners : Mr.A.Rajaram
(in both petitions)
For Respondents : No Appearance
(in both petitions)

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COMMON ORDER

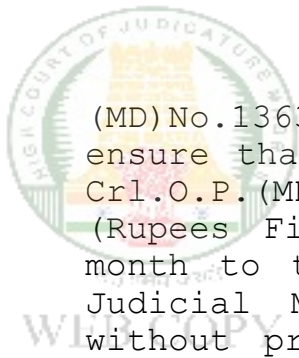
These Criminal Original Petitions have been filed to quash the proceedings in D.V.O.P.No.2 of 2017, filed by the first and second respondents herein, pending on the file of the Judicial Magistrate No.I, Sivaganga.

2.The petitioners in Crl.O.P.(MD)No.13639 of 2017 are the father-in-law and mother-in-law of the first respondent and the marriage between the third respondent in Crl.O.P.(MD)No.13639 of 2017 and the first respondent was solemnized on 02.12.2010. Thereafter, due to matrimonial disputes the first respondent and her husband were living separately from the matrimonial home. Under this circumstance, the first respondent in both petitions filed a petition under Domestic Violence Act in D.V.O.P.No.2 of 2017 on the file of the Judicial Magistrate No.I, Sivaganga and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.O.P.No.2 of 2017 is pending for trial. At this stage, the petitioners herein pray to quash the proceedings in D.V.O.P. No.2 of 2017.

3.Heard the learned counsel for the petitioners in both petitions.

4.It is seen that the relief sought for by the first and second respondents in the domestic violence case with regard to residential rights, compensation, etc., can be made and claimed as against the third respondent in Crl.O.P.(MD)No.13639 of 2017, who is already a party in that case. The petitioners in Crl.O.P.(MD) No.13639 of 2017 are only in-laws of the first respondent and they are living separately. As such, the protection order sought for by the first and second respondents herein in the domestic violence case against these petitioners/in-laws, 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 Crl.O.P.(MD)No.13639 of 2017. In the absence of the same, the proceedings as against the petitioners in Crl.O.P.(MD) No.13639 of 2017 cannot be maintained and consequently, the petitioners in Crl.O.P.(MD)No.13639 of 2017 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.O.P.No.2 of 2017, on the file of the Judicial Magistrate No.I, Sivaganga insofar as these petitioners in Crl.O.P.



(MD)No.13639 of 2017 are concerned, on condition that, they shall ensure that the third respondent/husband, who is the petitioner in Crl.O.P.(MD)No.3270 of 2018, shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of D.V.O.P.No.2 of 2017, on the file of the Judicial Magistrate No.1, Sivaganga, 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.Insofar as third respondent/husband, who is the petitioner in Crl.O.P.(MD)No.3270 of 2018, is concerned, since the impugned proceedings in D.V.O.P.No.2 of 2017 is pending from the year 2017 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. The third respondent/husband 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, Crl.O.P.(MD)No.13639 of 2017 stands allowed and Crl.O.P.(MD)No.3270 of 2018 stands dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

gns

To

The Judicial Magistrate No.I,
Sivaganga.

+2 CC to M/s.A.RAJARAM, Advocate SR-92065 & 92064.

CRL.O.P. (MD) Nos.13639 of 2017

&

3270 of 2018

15.10.2019

CS (31.10.2019) 3P 4C