



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.10.2019
CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P(MD)No.3014 of 2017

and

CRL.M.P(MD)No.2301 of 2017

WEB COPY

1.Gopala Kannan
2.Kalaiselvi
3.Vanamalar
4.Natesan
5.Sornam

... Petitioners/Respondents 1 to 5

Vs.

I.Sumathi

... Respondent/Petitioner

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in complaint in connection with D.V.O.P.No.9 of 2016, on the file of the learned Judicial Magistrate No.III, Nagercoil, Kanyakumari District and subsequently quash the same as illegal and devoid of merits so far as the Petitioners are concerned.

For Petitioners : Mr.Mr.S.Palani Velayutham

For Respondent : Alagusundar

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in D.V.O.P.No.9 of 2016 initiated by the respondent under the Domestic Violence Act.

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

3. It is seen from the records that the petitioners 2 to 5 were living separately and the respondent is living with her husband /1st petitioner and therefore, no domestic violence can be attributed as against the petitioners 2 to 5. The respondent has not made any specific allegations against the petitioners 2 to 5 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 5 have been roped in a domestic violence petition.

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

<https://hcservices.ecourts.gov.in/hcservices/>



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 5 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.O.P.No.9 of 2016, on the file of the learned Judicial Magistrate No.III, Nagercoil, Kanyakumari District is quashed insofar as the 2nd to 5th 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 Judicial Magistrate No.III, Nagercoil, Kanyakumari District to dispose of the proceedings in D.V.O.P No.09 of 2016 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-III)

// True Copy //

Sub Assistant Registrar(CS)

To

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

+1 CC to Mr.S.ALAGU SUNDAR, Advocate (SR-92623[F] dated 17/10/2019)

CRL.O.P (MD)No.3014 of 2017

and

CRL.M.P (MD)No.2301 of 2017

17.10.2019

VSN

MK (11.11.2019) 2P 3C