



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.6538 of 2017
and
CRL.M.P(MD)No.4307 of 2017

1.Muthamilselvi

2.Vaithilingam

... Petitioners/Respondents 3&8

Vs.

Malathi

... Respondent/Petitioner

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the case in DVC(MC)No.23 of 2016, on the file of the learned Judicial Magistrate No.1, Thanjavur and to quash the same as illegal as far as the Petitioners are concerned.

For Petitioners : Mr.J.Jeyakumaran

For Respondents : No Appearance

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in DVC(MC)No.23 of 2016, on the file of the learned Judicial Magistrate No.1, Thanjavur, initiated by the respondent under the Domestic Violence Act.

2.The first Petitioner is the sister of mother in law and the second Petitioner is the husband of the first Petitioner.

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

4. Heard the learned counsel for the Petitioners and perused the materials placed before this Court.

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



5. In the considered view of this Court, the petitioners 1 and 2 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.

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6. In the result, the proceedings in DVC(MC)No.23 of 2016, on the file of the learned Judicial Magistrate No.1, Thanjavur, is quashed insofar as the petitioners are concerned. Insofar as the husband is concerned, it is left open to the respondent to proceed further to prosecute the domestic violence petition as against the husband and other respondents in the Petition.

7. This Criminal Original Petition is allowed and there shall be a direction to the learned Judicial Magistrate No.1, Thanjavur to dispose of the proceedings in DVC(MC)No.23 of 2016, as against the husband and other respondents in the Petition 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

// True Copy //

Sub Assistant Registrar(CS)

To

The Judicial Magistrate No.I,
Thanjavur.

+1 CC to Mr.J.JEYAKUMARAN, Advocate (SR-92919[F] dated 18/10/2019)

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MK (01.11.2019) 2P 3C