



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2019

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P(MD)No.7869 of 2017

and

CRL.M.P(MD)Nos.5353 and 5354 of 2017

1.Mohamed Yasin
2.Bather Nisha
3.Jesi Banu
4.Katheeja Beevi
5.Seydali Fathima

.. Petitioners/Respondents 1 to 5

Vs.

1.M.Shakila
2.M.Nabisha (Minor)
represented by her mother first respondent)

.. Respondents/Petitioners

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the proceedings in D.V.O.P.No.5 of 2017 on the file of the learned Judicial Magistrate No.V, Tirunelveli District and quash the same as illegal.

For Petitioners : Mr.S.M.A.Jinnah

For Respondents : Mr.S.A.S.Alaudeen for R1

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in D.V.O.P.No.5 of 2017 initiated by the respondent under the Domestic Violence Act.

2. The first Petitioner is the husband and the petitioners 2 to 5 are sister-in-law of the respondent No.1.

3. It is seen from the records that the petitioners 2 to 5 are living separately and the respondents are living with the 1st petitioner/husband of first respondent and therefore, no domestic violence can be attributed as against the petitioners 2 to 5. The first 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 first 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 respondents.

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5. In the considered view of this Court, the 1st petitioner has to necessarily face the proceedings before the Court below. Insofar 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.5 of 2017, on the file of the learned Judicial Magistrate No.V, Tirunelveli, is quashed insofar as the petitioners 2 to 5 are concerned. Insofar as the first Petitioner/husband is concerned, this Petition stands dismissed. It is left open to the first 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.V, Tirunelveli, to dispose of the proceedings in D.V.O.P.No.5 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 petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar

To

The Judicial Magistrate No.V,
Tirunelveli.

CRL.O.P (MD) No.7869 of 2017
24.10.2019

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