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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P(MD)No.8033 of 2017
and
CRL.M.P(MD)Nos.5461 and 5462 of 2017

1.B.Asir
2.Sally Rethnavathy .. Petitioners/Respondents

Vs.

1.Mehilin
2.Johan Rich
3.Ivan Rich .. Respondents/Petitioners

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in D.V.O.P.No.24 of 2016 on the file of the District Munsif cum Judicial Magistrate, Eraniel and quash the same.

For Petitioners : Mr.J.Praveen
For Respondents : Mr.A.S.Thiruvadikumar for R1

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in D.V.O.P.No.26 of 2016 initiated by the respondent under the Domestic Violence Act.

2. The first Petitioner is the husband and second petitioner is the mother-in-law of the first respondent.

3. It is seen from the records that the second petitioner is 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 second petitioner. The first respondent has not made any specific allegations against the second petitioner 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 second petitioner has 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 second petitioner is 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.26 of 2016, on the file of the learned District Munsif cum Judicial Magistrate, Eraniel, is quashed insofar as the second petitioner is 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 District Munsif cum Judicial Magistrate, Eraniel, to dispose of the proceedings in D.V.O.P.No.26 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 petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

TM

To

The District Munsif cum Judicial Magistrate,
Eraniel.

+1 CC to Mr.J.PRAVEEN, Advocate (SR-94584[F] dated 25/10/2019)

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