



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

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WEB COPY

CRL.O.P(MD)No.9825 of 2017
and
CRL.M.P(MD)No.6706 of 2017

1. Sivakumar
2. Jeyapal
3. Jamuna

...Petitioners / Respondents

Vs.

1. Dhaya alias Mariammal
2. Nithin
3. Monolini

...Respondents / Petitioners

(Respondents 2 and 3 are represented by their
mother / natural guardian / first respondent)

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in D.V.No.4 of 2017, on the file of the learned Judicial Magistrate No.II, Kovilpatti and quash the same.

For Petitioners : Mr.M.V.Venkataseshan

For Respondents : Mr.D.Srinivasa Raghavan

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in D.V.No.4 of 2017, on the file of the learned Judicial Magistrate No.II, Kovilpatti.

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

3. It is seen from the records that the petitioners 2 and 3 are living separately and the respondents are living separately and therefore, no domestic violence can be attributed as against the petitioners 2 and 3. The respondent has not made any specific allegations against the petitioners 2 and 3 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 and 3 have been roped in a domestic violence petition.



4. Heard the learned counsel for the Petitioners and the learned counsel appearing for the respondents.

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 petitioner Nos.2 and 3 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.No.4 of 2017, on the file of the learned Judicial Magistrate No.II, Kovilpatti, is quashed insofar as the 2nd and 3rd 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 her husband / 1st petitioner.

7. This Criminal Original Petition is partly allowed and there shall be a direction to the learned Judicial Magistrate No.II, Kovilpatti, to dispose of the proceedings in D.V.No.4 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 petition is closed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar(CS)

tsg

To

1. The Judicial Magistrate No.II, Kovilpatti.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.V.VENKATASESHAN, Advocate SR-92840.

CRL.O.P(MD)No.9825 of 2017

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CS (04.11.2019) 2P 4C