

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 20.12.2019

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CORAM:

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**CRL.O.P (MD) No.19187 of 2019andCRL.M.P (MD) Nos.11253 and 11255 of 2019

1.Firthoush Khan
2.S.Syed Hameed
3.Fathima Beevi
4.Absal Rabiya
5.Yasmeen Rani
6.Ajmeer Mohaideen

... Petitioners / Respondents

Vs.

1.Sharmila Banu

2.Minor.Sara Theyana
D/o.Firthoush Khan
Rep. through her first respondent
and natural guardian 1st petitioner

... Respondents / Petitioners

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in proceedings in D.V.O.P.No.14 of 2019 on the file of learned Judicial Magistrate Court, Devakottai and quash the same as against the petitioners herein.

For Petitioners : Mr.J.M.Hassanul Bazari

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.O.P.No.14 of 2019 on the file of the Judicial Magistrate Court, Devakottai as against the petitioners herein.

2.The first petitioner is the husband of the first respondent and the other petitioners are in-laws of the first respondent and the marriage between the first petitioner/Al viz., **Firthoush Khan** and the first respondent Viz., **Sharmila Banu** was solemnized on



27.11.2014. Thereafter, due to matrimonial disputes the first respondent and her husband were living separately from the matrimonial home. Under this circumstance, the first respondent herein filed a petition under Domestic Violence Act in D.V.O.P.No.14 of 2019 on the file of the Judicial Magistrate Court, Devakottai and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.O.P.No.14 of 2019 is pending for trial. At this stage, the petitioners herein who are the husband and in-laws of the first respondent pray to quash the proceedings in D.V.O.P.No.14 of 2019.

3. Heard Mr. J.M. Hassanul Bazari, learned counsel appearing for the petitioners.

4. It is seen that the relief sought for by the first respondent in the domestic violence case with regard to residential rights, compensation, etc., can be made and claimed as against her husband, who is already a party in that case. The first petitioner herein is the husband and the petitioners 2 to 6 are in-laws of the first respondent and they are living separately. As such, the protection order sought for by the first respondent herein in the domestic violence case against these petitioners 2 to 6, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 2 to 6 against the first respondent itself seems to be false. While that being so, there cannot be any act of any domestic violence as defined under Domestic Violence Act against the petitioners 2 to 6. In the absence of the same, the proceedings as against these petitioners 2 to 6 cannot be maintained and consequently, the petitioners 2 to 6 need not undergo the ordeal of facing a criminal trial.

5. In view of the above, this Court is not inclined to quash the proceedings in D.V.O.P.No.14 of 2019, on the file of the Judicial Magistrate Court, Devakottai, as against the first petitioner and insofar as petitioners 2 to 6 are concerned, the proceedings in D.V.O.P.No.14 of 2019, on the file of the Judicial Magistrate Court, Devakottai, is hereby quashed on condition that, they shall ensure that the first petitioner/husband of the first respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of D.V.O.P.No.14 of 2019, on the file of the Judicial Magistrate Court, Devakottai as *ad-interim* maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the first respondent is entitled to withdraw the same.

6. Insofar as the first petitioner/husband of the first respondent is concerned, since the impugned proceedings in D.V.O.P.No.14 of 2019 is pending, it would be appropriate to direct the trial Court to complete the trial as expeditiously as possible. The first petitioner/husband of the first respondent is directed to



appear before the trial Court on the next hearing date, failing which, the first respondent is at liberty to approach this Court.

7. In the result, this Criminal Original Petition stands partly allowed in respect of petitioners 2 to 6 alone. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

To

1. The Judicial Magistrate,
Devakottai.
2. The Chief Judicial Magistrate,
Sivagangai District.

+1 CC to M/s.S.A.AJMALKHAN, Advocate (SR-106259)

CRL.O.P (MD) No.19187 of 2019
and

CRL.M.P (MD) Nos.11253 and 11255 of 2019
20.12.2019

vsg

SDS (10.01.2020) 3P-4C