

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.17120 of 2012
and
MP.No.1 of 2012

1.Arun
2.Deephi
3.Pradeep
4.Yasodha
5.Vasanthi

..... Petitioners /Respondents 2 to 6

Vs.

Tmt Pratheepa ... Respondent/ Petitioner

Prayer: Petition filed under Section 482 of Cr.P.C., seeking to call for the records in connection with D.V.A.No.13 of 2012 on the file of the learned Judicial Magistrate-VI, Coimbatore and quash the same.

For Petitioners: Mr.A.Gopinath

For Respondent : No appearance

ORDER

This Petition has been filed by the petitioners, seeking to call for the records in connection with D.V.A.No.13 of 2012 on the file of the learned Judicial Magistrate-VI, Coimbatore and quash the same.

2. The petitioners are the family members viz., parents, brother and sisters of the husband of the respondent. It appears that the respondent herein filed a case under the Domestic Violence Act , 2005 in DVA.No.13/2012 against the petitioners herein for an injunction and consequently restraining them from causing domestic violence against the respondent and her children and for a further direction ,directing them to stay away from her and for other reliefs. The respondent has elaborately filed a petition making certain allegations against the petitioners. Pending disposal of the said petition, the petitioners have come forward with the present petition seeking

to quash the same.

3.The learned counsel for the petitioners submits that the marriage between the respondent and one Prabath was solemnized on 25.06.2009 at Udhagamandalam and after marriage matrimonial disputes aroused and despite compromise talks initiated by the elders, on many occasions, the respondent did not accede to the suggestions of the mediators and she behaved in rude manner and she also filed a Domestic Violence Petition in HMOP.No.456 of 2012 before the Family Court, Coimbatore and she also obtained a decree of exparte divorce and she has filed the above said petition under Section 12 of the Domestic Violence Act,2005, against the petitioners herein and the allegations are baseless and without any substantial documentary evidence to substantiate the said allegations and only with a view to harass the petitioners herein, the present petition has been filed. The learned counsel further submits that after filing the petition against the petitioner and after getting exparte decree of divorce the respondent has gone to Canada and settled there and, thereafter, she is not showing any interest to proceed with the proceedings. The learned counsel for the petitioners submits that the domestic violence case before the VI Judicial Magistrate, Coimbatore has now been transferred to the Special Court, Coimbatore and renumbered as HMOP.No.324 of 2019. Therefore, the learned counsel for the petitioners prayed this Court to quash the petition pending against the petitioners.

4. Heard the submission made by learned counsel for the petitioners.

5. There is no representation on behalf of the respondent.

6.On 08.01.2020, this Court, considering the fact that private notice ordered by this Court, was returned with an endorsement 'no such person' this Court ordered paper publication. Accordingly, pursuant to the directions of this Court, paper publication was also effected and, thereafter, the matter was listed on 27.01.2020 and the name of the respondent was also printed in the cause list. Despite the same, there was no representation on behalf of the respondent. Recording the same, this matter was again ordered to be listed on 30.01.2020.

7.Today, when the petition was taken up for consideration, there is no representation on behalf of the respondent. The learned counsel for the petitioners has made his submissions.

8.Despite service of notice and paper publication the respondent has not taken any steps either to engage a counsel or to appear in person to defend the case. Therefore, it appears that the respondent has no interest to defend the present case.

9.The petitioners have alleged that the respondent has already obtained an exparte decree of divorce and that she has settled in Canada and that only with a view to harass the petitioners, the present petition under the Domestic Violence Act has been instituted. the absence of the respondent in spite of notice clearly shows that the respondent is not intent on rebutting the case of the petitioners. from the above the only inference that could be drawn is in favour of the petitioners. Further, this Court perused the complaint and no substantial allegations against the petitioner and the allegations are vague. This Court is of the considered opinion that the case of the petitioners deserves to be accepted, more so, when the respondent has not turned up in spite of service of notice.

10. In the above circumstances, on the findings recorded above, this Court is of the view that the present petition for quashment of the proceedings deserves to be allowed.

11.Accordingly this Criminal Original Petition is allowed and the proceedings in D.V.A.No.13/2012 pending on the file of the Judicial Magistrate VI, Coimbatore is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

jrs

To

The Judicial Magistrate-VI,
Coimbatore.

+1cc to Mr. A.Goppinath, Advocate, S.R.No. 7840

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and
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VG II(CO)
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