

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27.01.2020
CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Criminal Original Petition No.1893 of 2013
and
M.P.No.1 of 2013

1.A.Subramanian
2.Mrs.P.Vijaya
W/o.Pushparaj

... Petitioners

-vs-

Mrs.L.Gowri @ Jermila
D/o.A.Loganathan

.... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to C.C.No.4166 of 2011 pending on the file of the X Metropolitan Magistrate, Egmore, Chennai and quash the same.

For Petitioners : Mr.R.Narendran
For Respondent : No appearance.

O R D E R

The respondent filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005, against the petitioners herein before the learned X Metropolitan Magistrate, Egmore, Chennai. The learned Magistrate took cognizance of the complaint in file in C.C.No.4166 of 2011 and sent summons to the petitioners. On receipt of the summons, the petitioners have filed the present petition seeking to quash the same.

2.The learned counsel for the petitioners would submit that the marriage between the respondent and the 1st petitioner's son is an arranged one and soon after the marriage within 15 days, the respondent left the matrimonial home and thereafter they set up an independent matrimonial home and the respondent and the 1st petitioner's son were living separately. The first petitioner does not have any contact with them and have not committed any offence as alleged by the respondent. The second petitioner is a distant relative of the first petitioner and is living somewhere else and not living in the first petitioner's house. Therefore, the petitioners were no way connected with the offence as alleged by the respondent. Hence, the complaint is liable to be quashed. The learned counsel also relied upon the judgment of the Hon'ble High Court of Madhya Pradesh passed in M.Cr.C.No.5644 of 2016 in the case of Kuldeep Singh and others Vs. Rekha and the judgment of the Hon'ble High Court of Andhra Pradesh in CrI.P.No.4140 of 2010 in the case of Nagamuthula Kondaiah Vs.State of Andhra Pradesh and another.

3. None appeared on behalf of the respondent. Heard the learned counsel for the petitioners and perused the records.

4. The marriage between the 1st petitioner's son and the respondent and their relationship are not disputed. The only dispute is that whether during and after the marriage, any domestic violence has occurred or not. According to the learned counsel for the petitioners, merely, the persons living in the same place may not be a ground for committing the offence. All these aspects are to be decided only during the trial. On perusal of records, already complaints on the ground of cruelty and domestic violence have been made as against the petitioners and it has been later pacified through mediators. Therefore, a prima facie case has been made out as against the petitioners. The judgments relied upon by the learned counsel for the petitioners are not applicable to the present facts of the case on hand. This Court does not find any merits to quash the complaint.

5. Accordingly, this Criminal Original Petition is dismissed. However, the petitioner shall take all the grounds before the trial Court. Connected miscellaneous petition is also closed. Since, the matter is pending from the year 2013 onwards and it is also informed that the Domestic Violence Case has now been transferred to the learned Additional Mahila Court, Egmore, and assigned number as D.V.C.No.23 of 2016, the learned Additional Mahila Judge, Egmore, is directed to dispose of the case in D.V.C.No.23 of 2016 in accordance with law within a period of one month from the date of receipt of copy of this order.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

1. The X Metropolitan Magistrate,
Egmore, Chennai.

2. The Additional Mahila Judge,
Mahila Court,
Egmore.

Crl.O.P. No.1893 of 2013

A.SK (25/02/2020)