

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2020

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.1535 of 2020

and

CRL.M.P.Nos.969 & 970 of 2020

1.G.Muniraj
2.M.Mageshwari
3.Govindaraj
4.Savithri
5.M.Sinivasan
6.Sindhu

... Petitioners/Respondents

Vs.

1.K.Aswini
2.Minor Harshath
Rep by his mother K. Aswini

...Respondents/Complainants

PRAYER:

Criminal Original Petition filed under Section 482 of Cr.P.C, to

i) Dispense with the production of the certified copy of the petition in DVC.No.10 of 2019 on the file of the learned Judicial Magistrate, Gudiyattam.

ii) Dispense with the personal appearance of the petitioners before the learned Judicial Magistrate Gudiyattam, in DVC.No.10 of 2019 till the disposal of the above quash petition.

Iii) Stay all further proceedings in DVC.No.10 of 2019 on the file of the learned Judicial Magistrate, Gudiyattam till the disposal of the above quash petition.

iv) Call for the records in DVC.No.10 of 2019 on the file of the learned Judicial Magistrate Gudiyattam and quash the same.

For Petitioners : Mr.K.Kannan
For Respondents : Mr.R.Karthikeyan

O R D E R

This Criminal Original Petition has been filed to call for the records in DVC.No.10 of 2019 on the file of the learned Judicial Magistrate Gudiyattam and quash the same.

2. The petitioners 1 and 2 are in-laws of the first respondent; third petitioner is the husband of the fourth petitioner; fourth petitioner is the sister of the second petitioner, fifth and sixth petitioners are the son and daughter-in-law of the petitioners 1 and 2. The marriage between A1/Ramachandiran and the respondent Viz., Aswini was solemnized on 03.07.2017. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home. Under this circumstance, the respondent herein filed a petition under Domestic Violence Act in D.V.C.No.10 of 2019 on the file of the Judicial Magistrate, Gudiyatham and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.10 of 2019 is pending for trial. At this stage, the petitioners herein who are the in-laws of the respondent and relatives of Ramachandiran pray to quash the proceedings in D.V.C.No.10 of 2019.

3. Heard Mr.K.Kannan, learned counsel for the petitioners and Mr.R.Karthikeyan, learned counsel appearing for the respondents.

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 petitioners herein are only the in-laws of the respondent and other relatives of the husband of the 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, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners against the 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 these petitioners. In the absence of the same, the proceedings as against these petitioners cannot be maintained and consequently, the petitioners need not undergo the ordeal of facing a criminal trial.

5. In view of the above, this Court is inclined to quash the proceedings in D.V.C.No.10 of 2019, on the file of the Judicial Magistrate, Gudiyattam, insofar as these petitioners are concerned, on condition that, they shall ensure that the A1/husband of the respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of DVC.No.10 of 2019, on the file of the Judicial Magistrate, Gudiyattam, 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 A1/husband of the first respondent is concerned, since the impugned proceedings in DVC.No.10 of 2019 is pending from the year 2019 onwards, it would be appropriate to direct the trial Court to complete the trial within a period of six months from the date of receipt of copy of this order. A1/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 allowed. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

gv
To

The Judicial Magistrate, Gudiyattam.

+1 cc to Mr.R.Karthikeyan Advocate sr25805

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