

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.NO.22467 OF 2015

AND

M.P.NO.1 OF 2015

1.Vijaya

2.Mohana Priya

..Petitioners/AA 2 & 3

Vs.

K.Anitha

..Respondent/Complainant

Prayer:-

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in D.V.A.No.19 of 2015 on the file of the Judicial Magistrate Court No.VII, Coimbatore and quash the same.

For Petitioners: Mr.V.V.Sairam

For Respondent : Mr.M.Sivavarthan

O R D E R

This case is taken up through video conference.

2. This criminal original petition has been filed seeking to call for the records in D.V.A.No.19 of 2015 on the file of the Judicial Magistrate Court No.VII, Coimbatore and quash the same.

3. On 08.09.2015, this Court passed the following order:

"Notice of motion returnable by three weeks. Private notice is also permitted.

2.In M.P.No.2 of 2015, personal appearance of the petitioners before the Trial Court is dispensed with, on condition that they shall deposit a sum of

Rs.5,000/- per month to the credit of D.V.A.No.19 of 2015 on the file of the Judicial Magistrate Court No.VII, Coimbatore, before 5th of every English calendar month and on such deposit, the respondent is entitled to withdraw the same. As regards the payment for the month of September 2015, the same shall be deposited before 25.09.2015 in the Trial Court. The proceedings as against one Harikumar in D.V.A.No.19 of 2015 shall proceed.

3.Post on 29.09.2015."

4. On 14.10.2020, this Court passed the following order:
"This case is taken up through video conference.

2. When the matter was taken up for hearing, Mr.M.Sivavarthan, learned counsel for the respondent submitted that the petitioners had not paid the interim maintenance that was ordered by this Court on 08.09.2015.

3. Mr.V.V.Sairam, learned counsel for the petitioners refuted the submission made by the learned counsel for the respondent and contended that the interim maintenance was paid up till COVID-19 lock down and only thereafter, the amount was not paid.

4. The petitioners are directed to file an affidavit to that effect and also give a Demand Draft in the name of the respondent for the arrears of interim maintenance up to the end of October 2020.

5. In the meantime, learned counsel for both the parties may discuss the matter and arrive at an amicable settlement.

Call on 04.11.2020 by video conference."

5. Today, when the matter was taken up for hearing, Mr.M.Sivavarthan, learned counsel for the respondent submitted that the petitioners have paid the arrears of maintenance of Rs.1,80,000/- in compliance with the interim order dated 08.09.2015 passed by this Court.

6. Heard Mr.V.V.Sairam, learned counsel for the petitioners and Mr.M.Sivavarthan, learned counsel for the respondent.

7. It is the case of the respondent that she got married to Harikumar on 26.02.2012 and their marriage ran into rough

weather resulting in the spouses getting estranged. The respondent has further made very serious allegations against Harikumar, his mother Vijaya and sister Mohana Priya.

8. In the opinion of this Court, disputed questions of fact cannot be gone into in a quash petition under Section 482 Cr.P.C. It is open to the parties to contest the case on merits before the trial Court.

9. In such view of the matter, this Court issues the following directions:

- i. The petitioners shall appear before the trial Court within two weeks from the date of receipt of a copy of this order and execute a bond for a sum of Rs.10,000/- each, under Section 88 Cr.P.C. without sureties;
- ii. The petitioners shall file an affidavit stating that their Advocate, engaged by them, will conduct their case in their absence and he will cross-examine the witnesses in their absence and will not adopt any dilatory tactics;
- iii. The petitioners shall also state in the affidavit that they will not dispute their identity;
- iv. On such affidavit being filed, the presence of the petitioners before the trial Court will stand dispensed with;
- v. However, the petitioners shall appear before the trial Court on the date the final order is to be passed;
- vi. That apart, whenever the presence of the petitioners is required, the trial Court may inform the Advocate appointed by them and the petitioners shall appear on the date so fixed by the trial Court;
- vii. The petitioners shall ensure that the sum of Rs.5,000/- as directed by this Court in the order dated 08.09.2015 is paid to the respondent every month as interim maintenance subject to any alteration that may be made by the trial Court under the facts and circumstances of the case; and
- viii. The sum of Rs.5,000/- shall be paid up till the end of the proceedings in D.V.A.No.19 of 2015.

In the result, this criminal original petition is dismissed with the above directions. Connected Crl.M.P. is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

nsd

To

The Judicial Magistrate No.VII,
Coimbatore.

+lcc to Mr.V.V.Sairam , Advocate, S.R.No.35959

Crl.O.P.No.22467 of 2015

MP (CO)
CS/10/12/2020



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