

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.12.2020

PRONOUNCED ON : 23.12.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.25228 of 2015
and M.P.No.1 of 2015

1.E.Samsudeen

2.Ramzan Bee

3.Muhammudha ... Petitioner/Accused1 to 3

Vs.

S.Jeenath Begam ... Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C.
to call for the records in M.C.No.1 of 2015 on the file of the
Judicial Magistrate Court, Kallakurichi and quash the same.

For Petitioners: Mr.N.Ramesh

For Respondent : Mr.K.T.S.Sivakumar

O R D E R

This criminal original petition has been filed seeking to
call for the records in M.C.No.1 of 2015 on the file of the
Judicial Magistrate Court, Kallakurichi and quash the same.

2. Jeenath Begam got married to Samsudeen on 20.07.1992
and they have children through the wedlock. Till 1995, there was
no problem between them, but, matrimonial discord began after
Jeenath Begam's first delivery in 1995.

3. It is the case of Jeenath Begam that she was subjected
to extreme cruelty by her husband and his family members and she
was left in the lurch without anything by them. Hence, Jeenath
Begam initiated proceeding in M.C.No.1 of 2015 in the Court of
Judicial Magistrate, Kallakurichi, claiming various reliefs
under the Protection of Women from Domestic Violence Act, 2005,

against Samsudeen, Ramzan Bee, Muhamuddhabi, Sabirabi and Liyakath Ali, for quashing which, this petition has been filed under Section 482 Cr.P.C.

4. Heard both sides and perused the records.

5. This Court has earlier quashed the proceedings against Sabirabi vide order dated 08.12.2020 in CrI.O.P.No.17212 of 2015.

6. Information called for from the trial Court shows that M.C.No.1 of 2015 has been renumbered as D.V.C.No.11 of 2016 and the same is pending on the file of the Judicial Magistrate Court No.I, Kallakurichi.

7. The learned counsel for the petitioners submitted that Jeenath Begam has earlier filed M.C.No.4 of 2012 for the same relief, but, that petition was withdrawn upon compromise between the parties and therefore, there cannot be fresh petition for the same relief.

8. In the opinion of this Court, matrimonial offences can give fresh causes of action and therefore, the withdrawal of the earlier proceedings will not be a bar for the present one.

9. The learned counsel for the petitioners further submitted that Jeenath Begam had taken all the property documents of her husband Samsudeen, including his passport.

10. In the opinion of this Court, these are disputed questions of fact, which cannot be gone into in a quash petition under Section 482 Cr.P.C.

11. On a reading of the complaint given by Jeenath Begam shows that she has made specific allegations against her husband Samsudeen and her mother-in-law Ramzan Bee. However, the allegations against others viz., Muhamuddhabi, Sabirabi and Liyakath Ali, are indeed very frail.

12. The learned counsel for Jeenath Begam (respondent) submitted that after Jeenath Begam was thrown out of her matrimonial home, she has been living in her natal home in Perambalur, without any means for survival.

13. In the result, this criminal original petition is partly allowed with the following directions:

- The proceedings in M.C.No.1 of 2015 (D.V.C.No.11 of 2016) on the file of the Judicial Magistrate Court No.I, Kallakurichi, is quashed as against Muhamuddha and Liyakath Ali;

- The proceedings in M.C.No.1 of 2015 (D.V.C.No.11 of 2016) on the file of the Judicial Magistrate Court No.I, Kallakurichi, shall proceed as against Samsudeen and Ramzan Bee;
- Taking into consideration the fact that Jeenath Begam is in penury and is now residing in Perambalur, the proceedings in M.C.No.1 of 2015 (D.V.C.No.11 of 2016) on the file of the Judicial Magistrate Court No.I, Kallakurichi, is transferred to the file of the Judicial Magistrate Court No.I, Perambalur;
- The case records shall be transferred within two weeks from the date of receipt of a copy of this order, on due intimation to the learned counsel on record for both sides;
- On receipt of the case papers, the Judicial Magistrate No.I, Perambalur, shall issue notice to Jeenath Begam, Samsudeen and Ramzan Bee through the police in Perambalur as well in Kallakurichi, for effective service;
- If Jeenath Begam requires Legal-Aid, the Judicial Magistrate No.I, Perambalur, shall provide the same.

Connected M.P. is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

nsd
To

- 1.The Judicial Magistrate No.I,
Kallakurichi.
- 2.The Judicial Magistrate No.I,
Perambalur.

Cr1.O.P.No.25228 of 2015

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