

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2020

CORAM:

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

CRL.O.P.No.3309 of 2020
and
CRL.M.P.No.1934 of 2020

1.V.Santhoshkumar, M/34 years
S/o.Venugobal
No.5/6, 1st Floor
Venkateshwara Nagar
2nd Main Road, 2nd Cross Street
Velacherry, Chennai-42.

2.Saraswathy, FM/63 years
W/o.Venugobal
No.25, 1st Floor
Ramalingapuram
Gandhi Street,
Kamarajar Nagar
Avadi, Chennai-600 071.

... Petitioners

Vs.

Nishanthi
D/o.Jayasekaran
No.19, 16th Cross Street
Krishna Nagar, Lawspet
Puducherry-608 008.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned proceeding in M.C No.3 of 2015 on the file of the Judicial Magistrate Court No.I, Puducherry and quash the same.

For Petitioners: Mr.P.R.Thiruneelakandan

For Respondent : No Appearance

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in M.C No.3 of 2015, filed by the respondent herein, pending on the file of the Judicial Magistrate Court No.I, Puducherry.

2. The petitioners are husband and mother-in-law of the respondent and the marriage between the 1st petitioner and the respondent Viz., Nishanthi was solemnized on 25.10.2009. 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 M.C No.3 of 2015 on the file of the Judicial Magistrate No.1, Puducherry and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. In the said M.C No.3 of 2015, an exparte order was passed against the petitioners on 11.03.2015. Aggrieved by the same, the petitioners have filed a petition in Crl.M.P No.702 of 2015 before the Judicial Magistrate No.1, Puducherry to revoke the exparte order. Thereafter, the petitioners have filed a petition in Crl.O.P No.14051 of 2015 before this Court seeking for a direction to the Judicial Magistrate to dispose of the petition in Crl.M.P No.702 of 2015 and this Court had directed the Judicial Magistrate to dispose of the said petition within a period of four weeks from the date of receipt of copy of the order and now, the case is pending. At this stage, the petitioners herein who are the husband and mother-in-law of the respondent pray to quash the proceedings in M.C No.3 of 2015.

3. Heard Mr.P.R.Thiruneelakandan, learned counsel for the petitioners.

4. It is seen that the relief sought for by the 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 2nd petitioner herein is only mother-in-law of the respondent and she is living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against the 2nd petitioner/mother-in-law, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the 2nd petitioner 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 the 2nd petitioner. In the absence of the same, the proceedings as against the 2nd petitioner cannot be maintained and consequently, the 2nd petitioner need not undergo the ordeal of facing a criminal trial.

5. In view of the above, this Court is not inclined to quash the proceedings in M.C No.3 of 2015 in respect of the 1st petitioner is concerned and hence, the Criminal Original Petition is dismissed as against the 1st petitioner. However,

this Court is inclined to quash the proceedings in M.C No.3 of 2015, on the file of the Judicial Magistrate Court No.1, Puducherry, insofar as the 2nd petitioner is concerned, on condition that, she shall ensure that the 1st petitioner/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 M.C.No.3 of 2015, on the file of the Judicial Magistrate No.1, Puducherry, as ad-interim maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the respondent is entitled to withdraw the same.

6. Insofar as the 1st petitioner/husband of the respondent is concerned, since the impugned proceedings in M.C No.3 of 2015 is pending from the year 2015 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. The 1st petitioner/husband of the respondent is directed to appear before the trial Court on the next hearing date, failing which, the respondent is at liberty to approach this Court.

7. In the result, this Criminal Original Petition stands allowed insofar as the 2nd petitioner is concerned. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.I,
Puducherry.

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VG II(CO)
GN(25/09/2020)