

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2020

CORAM:

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

Crl.O.P.No.4771 of 2020
and Crl.M.P.No2722 of 2020

1.M.Dhanapal, M/37 years
S/o.K.Maruthamuthu

2.M.Tamil Selvi, F/ 58 years
W/o.K.Maruthamuthu

Both are residing at
No. 2/52, Rettiyar Street,
Near Collector office, Siluvampatti Post,
Namakkal District.

... Petitioners

Vs.

1. Mrs. Padmini F/32 years

2. Minor. Abishek, M/8 years,
Represented by her mother Smt. Padmini,
Both are residing at
No. 70, Appalu Patter Street, Panrutti Taluk,
Cuddalore District.

... Respondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, praying to call for the records pertaining to D.V.C.No.13 of 2019, on the file of the Hon'ble Judicial Magistrate at Panruti, Cuddalore District filed by the Respondents and quash the same against the petitioners.

For Petitioners : Mr.K.S.Vivekanandam

For Respondents : No Appearance

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.13 of 2019, filed by the respondent herein, pending on the file of Hon'ble Judicial Magistrate at Panruti, Cuddalore District.

2. The petitioners are the husband and the in-laws of the first respondent and the marriage between A1/Dhanapal and the respondent Viz., Padmini was solemnized on 01.09.2008. Thereafter, due to matrimonial disputes the first respondent and her husband were living separately from the matrimonial home. Under this circumstance, the first respondent herein filed a petition under Domestic Violence Act in D.V.C.No.13 of 2019 on the file of the Judicial Magistrate, Panruti, Cuddalore district 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.13 of 2019 is pending for trial. At this stage, the petitioners herein who are the husband and the in-laws of the first respondent pray to quash the proceedings in D.V.C.No.13 of 2019.

3. Heard Mr.K.S.Vivekanandam, learned counsel for the petitioners.

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 second petitioner herein is only in-laws of the first respondent and she living separately. As such, the protection order sought for by the first respondent herein in the domestic violence case against second petitioner/in-law, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the second petitioner against the first 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 second petitioner. In the absence of the same, the proceedings as against second petitioner cannot be maintained and consequently, the second petitioner need not undergo the ordeal of facing a criminal trial. Insofar as first petitioner is concerned, this criminal original petition is dismissed.

5. In view of the above, this Court is inclined to quash the proceedings in D.V.C.No.13 of 2019, on the file of the Judicial Magistrate, Panruti, Cuddalore district, insofar as second petitioner is concerned, on condition that, he shall ensure that the A1/husband of the first respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) per month before 5th of every English Calendar month to the credit of DVC.No.13 of 2019, on the file of the Judicial Magistrate, Panruti, Cuddalore District, 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 D.V.C.No.13 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 nine 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 partly allowed. Consequently, the connected miscellaneous petition is closed

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsn

To

1. The Judicial Magistrate, Panruti, Cuddalore District
2. The Public Prosecutor,
High Court, Madras.

SS(CO)
RMP(01/09/2020)

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सत्यमेव जयते

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