

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2020

CORAM:

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

CRL.O.P.No.3458 of 2020

and

CRL.M.P.Nos.2036 and 2037 of 2020

1.S.Jamesh Christopher

2.R.Samuel Jesuraj

3.S.Vimala ... Petitioners/A1 to A3

Vs.

D.Sophia Princess ...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to D.V.C.No.82 of 2019 pending on the file of the XVII Metropolitan Magistrate Court, Saidapet, Chennai an quash the same as illegal and abuse of process of law.

For Petitioners: Mr.Adinarayana Rao

For Respondent : Mr.V.Ramamurthy

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.82 of 2019 pending on the file of the XVII Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

2. The 1st petitioner is the husband of the respondent and the petitioners 2 and 3 are in-laws of the respondent and the marriage between 1st petitioner/S.Jamesh Christopher and the respondent Viz.,D.Sophia Princess was solemnized on 13.11.2015. 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.82 of 2019 on the file of the XVII Metropolitan Magistrate Court, Saidapet, Chennai, 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.82 of 2019 is

pending for trial. At this stage, the petitioners herein who are the husband and in-laws of the respondent pray to quash the proceedings in D.V.C.No.82 of 2019.

3. Heard Mr.Adinarayana Rao, learned counsel for the petitioners and Mr.V.Ramamurthy for the learned counsel for the respondent.

4. The learned counsel for the petitioners submitted that the 2nd petitioner died.

5. Since the 2nd petitioner has died, the complaint as against the 2nd petitioner is abated. It is seen that the relief sought for by the respondents 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 1st petitioner herein is the husband and the petitioners 2 and 3 are only in-laws of the respondent and they are living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against the 3rd petitioner/in-law, 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 the 3rd petitioner. In the absence of the same, the proceedings as against these 3rd petitioner cannot be maintained and consequently, the 3rd petitioner need not undergo the ordeal of facing a criminal trial.

6. In view of the above, this Court is not inclined to quash the proceedings as against the 1st petitioner/husband in D.V.C.No.82 of 2019, on the file of the XVII Metropolitan Magistrate Court, Saidapet, Chennai, and this Court is inclined to quash the proceedings as against the 3rd petitioner in D.V.C.No.82 of 2019, on the file of the XVII Metropolitan Magistrate Court, Saidapet, Chennai, insofar as the 3rd 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 D.V.C.No.82 of 2019, on the file of the XVII Metropolitan Magistrate Court, Saidapet, Chennai, 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.

7. Insofar as 1st petitioner / husband of the respondent is concerned, since the impugned proceedings in D.V.C.No.82 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. 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.

8. In the result, this Criminal Original Petition stands allowed in respect of the 3rd petitioner and dismissed in respect of the 1st petitioner/husband. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III-MDU)

//True copy//

Sub Assistant Registrar

ssn

To

1. The XVII Metropolitan Magistrate,
Saidapet, Chennai.
2. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.3458 of 2020
and

CRL.M.P.Nos.2036 and 2037 of 2020

VG II (CO)
GMY (24/09/2020)

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