

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.4221 of 2020
and Crl.MP.Nos.2429 & 2430 of 2020

1. Sathishbabu
S/o.Jeyabalan,
2. Jeyabalan
S/o. Murugesan
3. Dhanalakshmi
W/o. Jeyabalan
4. Karthikeyan
S/o.Jeyabalan

All are residing at
No.6/68, Selva Nagar,
Chinnathapuram,
Karur District.

... Petitioners/Respondents

Vs.

V.Baskaran
S/o.Vadivelu,
No.23, Telephone Nagar,
Ganapathy Nagar,
Vettukkaattuvalasu,
Erode - 11.

... Respondents/Petitioner

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in D.V.C.No.64 of 2019 on the file of the learned Judicial Magistrate, Additional Mahila Court, Erode and quash the same.

For Petitioners : Mr.T.Balaji
For Respondent : Mr.M.Guruprasad

ORDER

This petition has been filed to quash the proceeding in D.V.C.No.64 of 2019 on the file of the learned Judicial Magistrate, Additional Mahila Court, Erode, under the Domestic Violence Act, as against the petitioners.

2. Heard Mr.T.Balaji, learned counsel appearing for the petitioners and Mr.M.Guruprasad, learned counsel appearing for the respondent.

3. The first petitioner is the husband and other petitioners are in-laws of one Keerthana and the respondent herein is the father of the said Keerthana. The first petitioner got married with the daughter of the respondent viz., Keerthana and due to their wed lock a male child was born and thereafter there was a strange relationship between them as such, the daughter of the respondent herein left the matrimonial home and living with the respondent herein. The daughter of the respondent lodged a complaint before the social welfare officer and the same was enquired and sent report in Na.Ka.No. RC.223/A3/2014 before the learned Judicial Magistrate No.1, Erode. The learned Magistrate had taken cognizance in M.C.No.1 of 2014 under Section 12 of Protection of Women from Domestic Violence Act as against the petitioners and another.

4. After conducting due trial, the learned Magistrate allowed the complaint and directed the petitioners herein to deliver the right of residing and also restrain the petitioners from interfering with the right of residence of wife of the first petitioner ie., the respondent's daughter. Further the first petitioner is directed to pay maintenance of Rs.9,000/- per month to the daughter of the respondent and also cost of Rs.13,164.50. Further the learned Magistrate rejected the claim of compensation and stay of child. Again the respondent who is the father-in-law of the first petitioner herein filed this present complaint under the Domestic Violence Act claiming compensation for a sum of Rs.20,00,000/-.

5. Though the respondent filed the present complaint on behalf of her daughter for claiming compensation under the Domestic Violence Act as against the petitioners, nowhere stated in the petition that the complaint was lodged on behalf of her daughter. In this regard, it is relevant to extract the provisions under Section 12 of the Domestic Violence Act as follows :-

"12. (1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act."

As per the provisions aggrieved person or any other person on behalf of the aggrieved person may present an application. In this case, the respondent never stated that the complaint has been filed on behalf of the aggrieved person and no power of attorney is filed. Therefore the complaint itself not maintainable under Section 12 of Domestic Violence Act.

6. More over, already the daughter of the respondent filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act in M.C.No.1 of 2014 and the same has been partly allowed in favour of her and partly dismissed in respect of claiming compensation. Now the present complaint has been filed through her father for seeking compensation, which was already dismissed in the earlier complaint. Therefore the present complaint is nothing but clear abuse of process of Court and it cannot be sustained as against the petitioners, as such the petitioners need not to go ordeal of trial.

7. In view of the above discussion, this Criminal Original Petition is allowed and the proceeding in D.V.C.No.64 of 2019 on the file of the learned Judicial Magistrate, Additional Mahila Court, Erode, is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

To

The Judicial Magistrate,
Additional Mahila Court,
Erode

+lcc to Mr.M.Guruprasad, Advocate, S.R.No.25852

CRL.O.P.No.4221 of 2020 and
Crl.MP.Nos.2429 & 2430 of 2020

SKS (CO)
RV(27/08/2020)

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