

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2020

CORAM:

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

CRL.O.P.No.4900 of 2020
and
CRL.M.P.No.2793 of 2020

1.Santhosh Kumar
2.Apparsamy

... Petitioners

Vs.

Meenakshi

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the proceedings in D.V.C.No.61 of 2019 before XVIII Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

For Petitioners: Mr.J.Ravi Shankar

For Respondent : No appearance

O R D E R

This Criminal Original Petition has been filed to call for the records pertaining to the proceedings in D.V.C.No.61 of 2019 before XVIII Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

2. The petitioners are the husband and father-in-law of the respondent and the marriage between first petitioner / Santhosh Kumar and the respondent Viz., Meenakshi was solemnized on 03.07.2017. 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.61 of 2019 on the file of the XVIII 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.61 of 2019 is pending for trial. At this stage, the petitioners herein who are the husband and father-in-law of the respondent pray to quash the proceedings in D.V.C.No.61 of 2019.

3. Heard Mr.J.Ravi Shankar, 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 second petitioner herein is only the father-in-law of the respondent. As such, the protection order sought for by the respondent herein in the domestic violence case against the second petitioner, 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 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 second petitioner. In the absence of the same, the proceedings as against the second petitioner cannot be maintained and consequently, the second petitioner needs not undergo the ordeal of facing a criminal trial.

5. In view of the above, this Court is inclined to quash the proceedings in DVC.No.61 of 2019, on the file of the XVIII Metropolitan Magistrate Court, Saidapet, Chennai, insofar as the second petitioner is concerned, on condition that, he shall ensure that the 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 DVC.No.61 of 2019, on the file of the XVIII 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. In respect of the first petitioner, he needs to undergo the ordeal of facing criminal trial.

6. Insofar as husband of the respondent is concerned, since the impugned proceedings in DVC.No.61 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 six months from the date of receipt of copy of this order. 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 dismissed in respect of first petitioner and allowed in respect of the second petitioner. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The XVIII Metropolitan Magistrate,
Saidapet, Chennai.

CRL.O.P.No.4900 of 2020
and
CRL.M.P.No.2793 of 2020

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



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