

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2020

CORAM:

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

Crl.O.P.No.4769 of 2020
and Crl.M.P.Nos.2719 & 2341 of 2020

1. K.M.Raja @ Rajasekara Kasipathi,
S/o.late K.R.Manickam
2. Padmalochani
W/o.late K.R.Manickam Petitioners/Respondent

.Vs.

R.Ramalakshmi
W/o.Raja @ Rajasekara Kasipathi,
127/164, Athipalayam Pirivu,
Coimbatore North-641 006,
Coimbatore District. Respondent/Petitioners

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, praying to call for the records relating to the complaint in D.V.A.No.665 of 2019, on the file of the Judicial Magistrate/Special Court for Protection of Women from Domestic Violence Act cases, Coimbatore, quash the same.

For Petitioners : Mr.N.Manoharan

For Respondent : No Appearance

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.665 of 2019, filed by the respondent herein, pending on the file of the Judicial Magistrate/Special Court for Protection of Women from Domestic Violence Act cases, Coimbatore.

2. The petitioners are the husband and the in-laws of the respondent and the marriage between the 1st petitioner and the respondent in the year 1986. 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.665 of 2019 on the file of the Judicial Magistrate/Special Court for Protection of Women from Domestic Violence Act cases, Coimbatore 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.665 of 2019 is pending for trial. At this stage, the petitioners herein who are the husband and the in-laws of the respondent pray to quash the proceedings in D.V.C.No.665 of 2019.

3. Heard Mr.N.Manoharan, 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 in-laws of the respondent and she living separately. As such, the protection order sought for by the 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 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.665 of 2019, on the file of the Judicial Magistrate/Special Court for Protection of Women from Domestic Violence Act cases, Coimbatore district, insofar as second petitioner is concerned, on condition that, he shall ensure that the A1/husband of the 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.665 of 2019, on the file of the Judicial Magistrate/Special Court for Protection of Women from Domestic Violence Act cases, Coimbatore 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 respondent is entitled to withdraw the same.

6. Insofar as A1/husband of the respondent is concerned, since the impugned proceedings in D.V.C.No.665 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. Al/husband of the first 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 partly allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Judicial Magistrate/Special Court for
Protection of Women from Domestic Violence Act cases,
Coimbatore.

+1cc to Mr.N.Manokaran, Advocate, Sr.No.27667

CrI.O.P.No.4769 of 2020
and

CrI.M.P.Nos.2719 & 2341 of 2020

rr ii(18/09/2020)

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