

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.4483 of 2020
and Crl.M.P.No.2567 of 2020

1. I.Senthil Kumar,
S/o. S.Iyyamperumal.
2. M.Iyyamperumal,
S/o. Muniyan.
3. Sellammal,
W/o. Iyyamperumal.

Petitioners 1 to 3 are residing at
No.7/20, Sathya Nagar,
Avadathur Village, Jalakandapuram,
Mettur Taluk, Salem District.

4. I.Tamilselvi,
D/o. Iyyamperumal.
5. V.Senthilkumar,
S/o. Venkatesan.

Petitioners 4 to 5 are all residing at
Plot No.34/9, Subam Lay out,
Pegappalli Post, Houser Taluk,
Krishnakiri District - 635103.

...Petitioners

Vs.

R.Kiruthika,
S/o. Rajan,
No.7-6-12A, Salem Main Road,
Parakkallur Village,
Paanapuram Post,
Mecheri Via, Mettur Taluk,
Salem District - 636453.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482
Cr.P.C. praying to call for the records relating to D.V.O.P.
No.2/2020 on the file of Judicial Magistrate - II, Mettur, Salem
and quash the same.

For Petitioners : Mr. S.Arivazhagan
For Respondent : Mr. Vijayakumar

ORDER

This petition has been filed to call for the records relating to D.V.O.P. No.2/2020 on the file of Judicial Magistrate - II, Mettur, Salem and quash the same.

2. The petitioners are the husband and the in-laws of the respondent and the marriage between Senthil Kumar and the respondent Viz., Kiruthika was solemnized on 06.06.2019. 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.O.P. No.2/2020 on the file of Judicial Magistrate - II, Mettur, Salem and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.O.P. No.2/2020 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.O.P. No.2 of 2020.

3. Heard Mr. S.Arivazhagan, learned counsel for the petitioners and Mr.Vijayakumar, learned counsel for the respondent.

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 petitioners 2 to 5 herein 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 petitioners 2 to 5/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 2 to 5 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 petitioners 2 to 5. In the absence of the same, the proceedings as against petitioners 2 to 5 cannot be maintained and consequently, the petitioners 2 to 5 need not undergo the ordeal of facing a criminal trial. In so far 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.O.P. No.2/2020 on the file of Judicial Magistrate - II, Mettur, Salem. In so far as petitioners 2 to 5 are concerned, on condition that, they shall ensure that the 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 D.V.O.P. No.2/2020 on the file

of Judicial Magistrate - II, Mettur, Salem, 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. The trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this order. The 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 partly allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate - II, Mettur, Salem.

2. The Public Prosecutor,
High Court, Madras-104.

+1cc to Mr.S.Arivazhagan, Advocate in SR.NO..26045

Cr1.O.P.No.4483 of 2020
and Cr1.M.P.No.2567 of 2020

RSI (CO)
RV(30/9/2020)

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