

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2020

CORAM:

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

Crl.O.P.No.5612 of 2020 and
Crl.M.P.No.3167 of 2020

1.J.P.K.Suresh Kumar, M/29,
S/o.J.P.Kothandapani,
29/13, 5th Street,
Sakthi Nagar,
Choolaimedu, Chennai - 600 094.

2.J.P.Kothandapani, M/60,
S/o.Padmanabalu Naidu.

3.K.Vasanthi, F/55,
W/o.J.P.Kothandapani.

4.J.P.K.Vinodh Kumar, M/32,
S/o.J.P.Kothandapani,

Nos.2 to 4 are residing at:
MIG 349, Muthampalayam,
Housing Unit Phase II,
Kasipalayam Post, Erode - 638 009. Petitioners

Vs

K.Hemalatha, F/24.
D/o.K.Krishnamurthy,
D.No.29/15, Ganapathi Lane,
Anna Arch, Karur Town,
Karur Taluk & District
presently residing at No.533,
Rasipalayam Street, Mohanur Town,
Mohanur Taluk, Namakkal District. Respondent

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code to call for the records relating to the complaint in D.V.C.No.14 of 2019 on the file of the learned Judicial Magistrate, Additional Mahila Court, Namakkal, quash the same by allowing this criminal original petition.

For Petitioners:V.Srikanth

For Respondent :No Appearance

O R D E R

This petition has been filed to to call for the records relating to the complaint in D.V.C.No.14 of 2019 on the file of the learned Judicial Magistrate, Additional Mahila Court, Namakkal, quash the same by allowing this criminal original petition.

2. The petitioners are the husband and the in-laws of the respondent and the marriage between A1/J.P.K.Suresh Kumar and the respondent Viz.,K.Hemalatha was solemnized on 31.03.2019. 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.A.No.14 of 2019 on the file of the Judicial Magistrate, Mahila Court, Namakkal and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.A.No.14 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.A.No.14 of 2019.

3. Heard Mr.V.Srikanth learned counsel for the petitioners. Eventhough notice has been served to the respondent, no one appeared on behalf of 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 4 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 4/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 4 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 4. In the absence of the same, the proceedings as against petitioners 2 to 4 cannot be maintained and consequently, the petitioners 2 to 4 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.A.No.14 of 2019, on the file of the Judicial Magistrate, Mahila Court, Namakkal, insofar as petitioners 2 to 4 are concerned, on condition that, they 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 DVA.No.14 of 2019, on the file of the Judicial Magistrate, Mahila Court, Namakkal 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.A.No.14 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 three months from the date of receipt of copy of this order. A1/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(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate, Additional Mahila Court,
Namakkal.

2.-Do- Thro The Chief Judicial Magistrate Court,
Namakkal.

+1cc to V.Srikanth, Advocate Sr.30986 [12/10/2020]

CrI.O.P.No.5612 of 2020 and
CrI.M.P.No.3167 of 2020

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srg 07/10/2020