

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.5454 of 2020 and
Crl.M.P.No.3089 of 2020

- 1.Mohammed Noorullahkhan, (45) (R.1)
S/o.Nainor Mohammed.
- 2.Mohammed Ismail, (50) (R.2)
S/o.Nainor Mohammed.
- 3.Pathima, (40) (R.3)
W/o.Amrutheen.
- 4.Amrudeen, (45) (R.4)
S/o.Abdul.

All are residing at
N.M.Maligai,
Mulasi Via,
Pannikuthipalayam,
Tiruchengode.

- 5.Samsun Bashariya, (38) (R.5),
W/o.Abdul Kuthoose,
3/265, N.M.Maligai,
Rajiv Ganthi Nagar,
Erumapalayam,
Salem - 15.
- 6.Abdul Kuthoose, (42) (R.6),
S/o.Umarhakthar,
3/265, N.M.Maligai,
Rajiv Ganthi Nagar,
Erumapalayam,
Salem - 15.

... Petitioners

Vs

Shakul Habeed Umma,
W/o.Mohammed Noorullahkhan,
40, Indira Nagar, 2nd Street,
Karungalpalayam, Erode.

... Respondent

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code to call for the records pertaining to the case in D.V.A.No.5480 of 2019 on the file of the Hon'ble Judicial Magistrate Court No.I, Erode & District and quash the same.

For Petitioners : M.Karthik

For Respondent : No Appearance

O R D E R

This petition has been filed to call for the records pertaining to the case in D.V.A.No.5480 of 2019 on the file of the Hon'ble Judicial Magistrate Court No.I, Erode & District and quash the same.

2. The petitioners are the husband and the in-laws of the respondent and the marriage between Al/Mohammed Noorullahkhan and the respondent Viz.,K.Shakul Habeed Umma was solemnized on 26.08.2016. 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.5480 of 2019 on the file of the Judicial Magistrate Court No.1, Erode District 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.5480 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.5480 of 2019.

3. Heard Mr.L.C.Vasudevan learned counsel for the petitioners. Eventhough notice has been served on 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 6 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 6/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 6 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 6. In the absence

of the same, the proceedings as against petitioners 2 to 6 cannot be maintained and consequently, the petitioners 2 to 6 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.5480 of 2019, on the file of the Judicial Magistrate Court No.1, Erode District, insofar as petitioners 2 to 6 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.5480 of 2019, on the file of the Judicial Magistrate Court No.1, Erode 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.A.No.5480 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 petitions is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate Court No.1,
Erode District.

2.-Do- Thro The Chief Judicial Magistrate,
Erode.

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Crl.M.P.No.3089 of 2020

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srg 07/10/2020