

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.NOS.5620 & 12056 OF 2020

AND

CRL.M.P.NOS.3186, 4791 & 5082 OF 2020

S.Thiruchelvi, 63 years,
C/o.Ayyapane Gnanavelou,
No.23, Thiyagaraja Street,
Raj Bhavan, Puducherry - 605 001.

.... Petitioner in both Crl.O.Ps

Vs.

1.Dhanalakshmi,
W/o.Dilbet Saravana Coumar,
D/o.Velayutham,
No.66, Thiyagaraja Street,
Pondicherry.

....1st Respondent in both Crl.O.Ps

2.Dilbet Saravana Coumar
3.Dilbet Banumathy
4.Dilbet Nalina Soundari
5.Dilbet Satiche Coumar
6.Dilbet Saanthi Satiche Coumar
7.Dilbet Senthil Coumar
8.Dilbet Souda Senthil Coumar

... Respondents in Crl.O.P.No.5620 of 2020
(Respondents 2 to 8 given up in
Crl.O.P.No.5620 of 2020 vide in EB)

PRAYER in Crl.O.P.No.5620 of 2020:

Criminal Original Petition filed under Section 482 Cr.P.C.
praying to call for the records relating to the order dated
27.02.2020 passed in Crl.M.P.No.3974 of 2019 in D.V.C.No.4 of
2017 on the file of learned Chief Judicial Magistrate,
Pondicherry and set aside the same.

PRAYER in Crl.O.P.No.12056 of 2020:

Criminal Original Petition filed under Section 482 Cr.P.C.
praying to call for the records relating to the Complaint in
D.V.C.No.4 of 2017 on the file of Learned Chief Judicial
Magistrate, Pondicherry and quash the same.

For Petitioner
(In both Crl.O.Ps) : Mr.M.Arunachalam

For Respondents
(In both Crl.O.Ps) : Mr.C.Sathimanigandan

ORDER

These petitions have been filed to call for the records relating to the case in D.V.C.No.4 of 2017 on the file of the learned Chief Judicial Magistrate, Pondicherry, and Quash the same and also set aside order dated 27.02.2020 passed in Crl.M.P.No.3974 of 2019 in D.V.C.No.4 of 2017.

2. The petitioner is a in-law, who is residing with the mother-in-law of the respondent. The marriage between Al/Dilbet Saravanacoumar and the respondent Viz.,Dhanalakshmi was solemnized on 02.11.2014. 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.4 of 2017 on the file of the Chief Judicial Magistrate, Pondicherry and implicated the petitioner as party to the petition and sought action as against her under Domestic Violence Act. The said D.V.C.No. 4 of 2017 is pending for trial. At this stage, the petitioner herein who is in-law and residing with the mother-in-law of the respondent pray to quash the proceedings in D.V.C.No.04 of 2017.

3. Heard Mr.M.Arunachalam, learned counsel for the petitioner and Mr.C.Sathimanigandan, 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 petitioner who is only in-law and she is living separately with the mother-in-law of the respondent. As such, the protection order sought for by the respondent herein in the domestic violence case against petitioner, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioner against the respondent itself seems to be false. While being so, there cannot be any act of any domestic violence as defined under Domestic Violence Act against petitioner. In the absence of the same, the proceedings as against petitioner cannot be maintained and consequently, the petitioner need not undergo the ordeal of facing a criminal trial.

5. In view of the above, this Court is inclined to quash the proceedings in D.V.C.No.04 of 2017, on the file of the Chief Judicial Magistrate, Pondicherry, insofar as petitioner is concerned, on condition that, she shall ensure that the AI/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.C.No.04 of 2017, on the file of the Chief Judicial Magistrate, Pondicherry, as ad-interim maintenance, without prejudice to both the parties, failing which this order shall stand automatically canceled. On such deposit being made, the respondent is entitled to withdraw the same.

6. Insofar as AI/husband of the respondent is concerned, since the impugned proceedings in D.V.C.No.04 of 2017 is pending from the year 2017 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. AI/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, Crl.O.P.No.12056 of 2020 is stands allowed. Consequently, the connected miscellaneous petitions are closed.

8. In view of the order passed in Crl.O.P.No.12056 of 2020, the Criminal Original Petition in Crl.O.P.No.5620 of 2020 is closed as no further order is necessary.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mpa

To

The Chief Judicial Magistrate,
Pondicherry.

+2cc to Mr.M.Arunachalam, Advocate, S.R.No.29836 & 29837

Crl.O.P.Nos.5620 & 12056 of 2020
and

Crl.M.P.Nos.3186, 4791 & 5082 of 2020

SSI(CO)
CS/13/10/2020