

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2020

CORAM:

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

CRL.O.P.No.6441 of 2020

and

CRL.M.P.No.3561 of 2020

1.M.Syed Hakkim
2.Mohamed Kani
3.Alif Roja
4.Syed Oli Fathima
5.M.A.Farook
6.Syed Rafia
7.Mansoor Hussain
8.Liyakat Ali
9.Samsath Begum
10.Sheikholi

.. Petitioners/Respondents 1 to 10

Vs.

M.Femina Parveen

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to D.V.C.No.1 of 2020 pending on the file of the Judicial Magistrate No.I, Udumalpet, and quash the same.

For Petitioners: Mr.M.Devaraj

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.1 of 2020 pending on the file of the Judicial Magistrate No.I, Udumalpet.

2. The 1st petitioner/M.Syed Hakkim is the husband of the respondent and the petitioners 2 to 10 are in-laws of the respondent and the marriage between 1st petitioner/M.Syed Hakkim and the respondent Viz.,M.Femina Parveen was solemnized on 22.01.2018. 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.1 of 2020 on the file of the Judicial Magistrate No.I, Udumalpet, 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.1 of 2020 is pending for trial. At this stage, the petitioners herein who are the husband and in-laws of the respondent pray to quash the proceedings in D.V.C.No.1 of 2020.

3. Heard Mr.M.Devaraj, learned counsel for the petitioners. Though notice was 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 1st petitioner herein is the husband and the petitioners 2 to 10 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 the petitioners 2 to 10/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 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 the petitioners 2 to 10. In the absence of the same, the proceedings as against these petitioners 2 to 10 cannot be maintained and consequently, the petitioners 2 to 10 need not undergo the ordeal of facing a criminal trial.

5. In view of the above, this Court is not inclined to quash the proceedings as against the 1st petitioner/husband in D.V.C.No.1 of 2020, on the file of the learned Judicial Magistrate No.I, Udumalpet, and this Court is inclined to quash the proceedings as against the petitioners 2 to 10 / in-laws in D.V.C.No.1 of 2020, on the file of the learned Judicial Magistrate No.I, Udumalpet, insofar as the petitioners 2 to 10 are concerned, on condition that, they shall ensure that the 1st petitioner/husband of the respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of D.V.C.No.1 of 2020, on the file of the learned Judicial Magistrate No.I, Udumalpet, 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 1st petitioner / husband of the respondent is concerned, since the impugned proceedings in D.V.C.No.1 of 2020 is pending from the January 2020 onwards, it would be appropriate to direct the trial Court to complete the trial within a period of nine months from the date of receipt of copy of this order. The 1st petitioner / 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 allowed in respect of the petitioners 2 to 10 and dismissed in respect of the 1st petitioner/husband. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

ssn

To

1. The Judicial Magistrate No.I,
Udumalpet,

2. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.6441 of 2020
and
CRL.M.P.No.3561 of 2020

PVS (CO)
CB(21/08/2020)

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