

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

CORAM:

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

CRL.O.P.No.10296 of 2019

and

CRL.M.P.No.5345 of 2019

1.Roselind Andrew

2.Tina Nixon

...Petitioners/2nd & 3rd Respondent

Vs.

1.Mary Rini George

2.A.J.Prince

...Respondents/Petitioners

...Respondent/1st Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to quash the proceeding in D.V.C.No.8 of 2019 pending on the file of the XVII Metropolitan Magistrate, Saidapet and discharge the petitioners.

For Petitioners : Mr.R.Shanmugam

For Respondents : Mr.Nambi Arooran for R1

Mr.N.Chinnaraj for R2

O R D E R

This Criminal Original Petition has been filed to quash the proceeding in D.V.C.No.8 of 2019 pending on the file of the XVII Metropolitan Magistrate, Saidapet and discharge the petitioners.

2. The petitioners are in-laws of the respondents and the marriage between first respondent and the second respondent was solemnized on 24.05.2010. Thereafter, due to matrimonial disputes the first respondent and her husband were living separately from the matrimonial home. Under this circumstance, the first respondent herein filed a petition under Domestic Violence Act in D.V.C. No.8 of 2019 on the XVII Metropolitan Magistrate, Saidapet and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.8 of 2019 is pending for trial. At

this stage, the petitioners herein who are the in-laws of the respondents pray to quash the proceedings in D.V.C.No.8 of 2019.

3. Heard both sides.

4. It is seen that the relief sought for by the first 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 herein are only in-laws of the respondents and they are living separately. As such, the protection order sought for by the first respondent herein in the domestic violence case against these petitioners/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 these petitioners. In the absence of the same, the proceedings as against these petitioners cannot be maintained and consequently, the petitioners 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 DVC.No.8 of 2019, on the XVII Metropolitan Magistrate, Saidapet insofar as these petitioners are concerned, on condition that, they shall ensure that the second respondent/husband of the first respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of DVC.No.8 of 2019, on the file of the XVII Metropolitan Magistrate, Saidapet, as ad-interim maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the first respondent is entitled to withdraw the same.

6. Insofar as second respondent/husband of the first respondent is concerned, since the impugned proceedings in DVC.No.8 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 six months from the date of receipt of copy of this order. The second respondent is directed to appear before the trial Court on the next hearing date, failing which, the first respondent is at liberty to approach this Court.

7. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

tta

To

The XVII Metropolitan Magistrate,
Saidapet.

+1 cc to Mr.S.Nambi Arooran Advocate sr19095

+1 cc to M/s.R.Shanmugam Advocate sr19042

CRL.O.P.No.10296 of 2019

and

CRL.M.P.No.5345 of 2019

ad(co)
aa13/05/2020



WEB COPY