

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.12855 of 2020
and Crl.M.P.No.5012 of 2020

1.G.Rahuman
2.K.Gaffar
3.G.Nasima

... Petitioners

Vs.

1.State Rep by
The Protection Officer-I
Under the Domestic Violence Act,
O/o District Social Welfare Officer,
District Collectorate,
8th Floor, Singaravaler Malagai,
Rajaji Salai, Chennai-600 001.

2.G.Shaheen

3.Moulvi Syed Nayat Ahmeed M.A.,
Imam of Katheeb of Majid-e-ahrur,
No.9, Kathbada, 2nd Cross lane,
Chennai-600 021.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the entire records relating to the impugned summon in Na.Ka.No.1820/Ku.Va/2005/20/2/20 dated 27.02.2020 on the file of first respondent herein and quash the same.

For Petitioners: Mr.R.Krishnamurthy
for Mr.C.V.Kumar

For R1 : Mr.S.Karthikeyan
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to call for the entire records relating to the impugned summon in Na.Ka.No.1820/Ku.Va/2005/20/2/20 dated 27.02.2020 on the file of first respondent herein and quash the same.

2.The learned counsel appearing for the petitioners would submit that the 1st petitioner got married the 2nd respondent on 26.04.2015 as per the Islaam rights and customs. Thereafter, due to stained relationship between them, the petitioner filed divorce petition in which he was granted divorce on 07.03.2016 by the 3rd respondent. Since the Hon'ble Supreme Court of India declared the triple talak as illegal and unlawful, utilizing the said circumstances, now the 2nd respondent filed complaint under the Domestic Violence Act as against the petitioners. He further submitted that Hon'ble Supreme Court of India though declared the triple talak as illegal and unlawful, whether the judgment is retrospective in nature. Therefore, unnecessarily the petitioners are dragged before the 1st respondent and as such sought for considering the above submission made by the petitioners.

3. It is seen from the perusal of the records that on the complaint lodged by the 2nd respondent, the 1st respondent issued summons to conduct enquiry with the petitioners. It is only a summon and no complaint has been enclosed along with the summon and absolutely there is no material to show what are all the allegations, whatever the contention contended by the learned counsel for the petitioners. Therefore, the petitioners are directed to appear before the 1st respondent for enquiry within a period of two weeks from the date of receipt of copy of this order without fail and submit all the documents before the 1st respondent. The 1st respondent is directed to conduct enquiry and to pass orders on merits in accordance with law.

4.With the above direction, this Criminal Original Petition is disposed of. Consequently, connected Criminal Miscellaneous Petition is closed.

सत्यमेव जयते Sd/-

Assistant Registrar (CS-I)

//True copy//

Sub Assistant Registrar

gbi

To

1.The Protection Officer-I
Under the Domestic Violence Act,
O/o District Social Welfare Officer,
District Collectorate,
8th Floor, Singaravaler Malagai,
Rajaji Salai, Chennai-600 001.

2.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.C.V.Kumar, Advocate SR.No.27361

Crl.O.P.No.12855 of 2020

BR(CO)
GMY(02/09/2020)



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