

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.12831 of 2020

1.Pradeep
S/o.Late Govindasamy,

2.Ukdhambal
W/o.Govindasamy, ...Petitioners

-Vs-

M.Saranya
W/o.Pradeep,
D/o.Late, Moorthy
No.3C, Block 8, Sai Amarnath Apartment,
Sai Nagar, Pothanur,
Coimbatore-641 023. ... Respondent

Prayer: Criminal Original petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and to quash the proceedings in D.V.A.No.346 of 2019 on the file of the Judicial Magistrate Special Court for Trial of Domestic Violence Act cases, Coimbatore against the petitioners.

For Petitioners: **Mr.G.R.Deepak**

For Respondent : Mr.Agilesh Kumar

ORDER

This Criminal Original Petition has been filed to call for the records and to quash the proceedings in D.V.A.No.346 of 2019 on the file of the Judicial Magistrate Special Court for Trial of Domestic Violence Act cases, Coimbatore against the petitioners.

2. The petitioners are the husband and the in-laws of the respondent and the marriage between the 1st petitioner and the respondent in the year 2015. 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.346 of 2019 on the file of the Judicial Magistrate Special Court for Trial of Domestic Violence Act cases, Coimbatore 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.346 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.346 of 2019.

3. Heard Mr.C.R.Deepak, learned counsel for the petitioners and Mr.Agilesh Kumar learned counsel appearing 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 second petitioner herein is only in-laws of the respondent and she living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against second petitioner/in-law, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the second petitioner 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 second petitioner. In the absence of the same, the proceedings as against second petitioner cannot be maintained and consequently, the second petitioner 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.346 of 2019, on the file of the Judicial Magistrate Special Court for Trial of Domestic Violence Act cases, Coimbatore District, insofar as second petitioner is concerned, on condition that, he 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 D.V.A.No.346 of 2019, on the file of the Judicial Magistrate Special Court for Trial of Domestic Violence Act cases, Coimbatore 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.346 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. A1/husband of the first 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.

"FOR BEING MENTIONED"

This matter having been listed under "the caption for being mentioned" on Tuesday Twenty Second day of September Two Thousand and Twenty pursuant to the order of this Court dated 25.08.2020 and made herein in the presence of the abovesaid either side this Court made the following order:

'2. The case is still in the stage of trial. By passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably among themselves.

3. The Memorandum of Understanding has been filed before this Court which have been signed by the petitioners and counter parties and also by their respective counsel. All the parties are present and identified by their respective counsel. In order to identify the respective parties, they have also produced the copies of the Aadhaar Card are made part of the record. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves.

4. Under such circumstances, no useful purpose will be served in keeping the trial proceedings pending in D.V.A.No.346 of 2019, even though, the offences involved are not compoundable in nature. In the light of the guidelines given by the Hon'ble Supreme Court reported in 2017 9 SCC 641-(Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrat), this Court in exercise of its jurisdiction under Section 482 Cr.P.C., is inclined to quash the proceedings in D.V.A.No.346 of 2019 on the file of the learned Judicial Magistrate Special Court for Trial of Domestic Violence Act Cases, Coimbatore.

5. This Criminal Original Petition stands allowed and as a sequel, the proceedings in D.V.A.No.346 of 2019 on the file of the learned Judicial Magistrate Special Court for Trial of

Domestic Violence Act Cases, Coimbatore is quashed and the terms of Memorandum of Understanding shall form part and parcel of this Order."

*Herein enclosed the xerox copy memo of Compromise filed in Petitioners and the Respondent.

Sd/-
Assistant Registrar(CO)

***corrected as per order of
this Court for being mentioned
dated 22.09.2020 and
made in Crl.OP.No.12831 of 2020**

-s/d-

**Assistant Registrar(CO)
dt 01/10/2020**

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate Special Court for
Trial of Domestic Violence Act cases,
Coimbatore District.

2. The Public Prosecutor,
High Court, Madras.

**to be substituted
For the order already
despatched on 21.09.2020**

+1cc to Mr.G.R.Deepak, Advocate Sr.27969

सत्यमेव जयते

Crl.O.P.No.12831 of 2020

ks[co]
srg 21/09/2020
A.SK(05/10/2020)

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