

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.13446 of 2020
and
Crl.M.P.No.5221 of 2020

1.Kesavan, M/Aged 33 years,
S/o.Sankaran

2.Karthika, F/Aged 30 years,
W/o.Kesavan

Both are residing at
Main Road,
No.92, Keezhaiyur, Poombuhar,
Sirkazhi Taluk,
Nagapattinam District.

Now residing at
No.5/76, Main Road,
Keezhaiyur, Poombuhar,
Sirkazhi Taluk,
Nagapattinam District.

... Petitioners

Vs

Vaidhegi, F/Aged 31 years,
(Deaf and Dumb, Represented by
Her mother Susheela),
D/o.Pazhamalai,
W/o.Muthuramalingam,
Sivan Kovil Street,
Pachaperumanallur,
Sirkazhi Taluk,
Nagapattinam District.

... Respondent

Prayer:Criminal Original Petition filed under Section 482
Cr.P.C., to call for records relating to the complaint in
D.V.C.No.4 of 2020 on the file of the learned Judicial
Magistrate Court, Sirkazhi and to quash the same.

For Petitioners : Mr.M.Vinoth
For Respondent : Mr.Senthil Kumar

ORDER

This Criminal Original Petition has been filed to quash the proceedings in D.V.A.No.4 of 2020 filed by the respondent herein, pending on the file of the learned Judicial Magistrate Court, Sirkazhi.

2. The petitioner is in-laws of the respondent and the marriage between Al/Muthuramalingam and the respondent Viz.,Vidhegi was solemnized on 08.09.2014. 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.A. No.4 of 2020 on the file of the learned Judicial Magistrate Court, Sirkazhi and implicated the petitioner as party to the petition and sought action as against them under Domestic Violence Act. The said D.V.A.No.4 of 2020 is pending for trial. At this stage, the petitioner herein who is the in-law of the respondent pray to quash the proceedings in D.V.A.No.4 of 2020.

3. Heard Mr.M.Vinoth learned counsel appearing for the petitioner and Mr.Senthil 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 petitioner herein is only in-law of the respondent and he living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against these petitioner/in-law, 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 that being so, there cannot be any act of any domestic violence as defined under Domestic Violence Act against these petitioner. In the absence of the same, the proceedings as against this 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 DVA.No.4 of 2020, on the file of the learned Judicial Magistrate Court, Sirkazhi, insofar as these 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) before 5th of every English Calendar month to the credit of DVA.No.4 of 2020, on the file of the learned Judicial Magistrate Court, Sirkazhi, as ad-interim maintenance, without prejudice to the party, 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 DVA.No.4 of 2020 is pending, 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 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. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsn
To
The learned Judicial Magistrate Court,
Sirkazhi.

+1 cc to M/s.M.Vinoth, Advocate Sr.No. 31814

Cr1.O.P.No.13446 of 2020
and
Cr1.M.P.No.5221 of 2020

GP(CO)
RMP(16/10/2020)

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