

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

CrI.O.P.No.21772 of 2019
and CrI.M.P.Nos.11316 & 11318 of 2019

1. Arun Prabhu
S/o.V.Meenakshi Sundaram

2. M.Valliammal
W/o.V.Meenakshi Sundaram

... Petitioners

Vs

1. Nagarani
W/o.M.Arun Prabhu.

2. Minor Sujith
S/o.M.Arun Prabhu.

3. Minor Subhiksha.
S/o.Arun Prabhu.
Respondents 2 & 3 are rep.
by their mother and guardian
the first respondent.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code to call for the records and to quash the petition in D.V.A.No.11 of 2018 on the file of the Judicial Magistrate Court No.III, Erode.

For Petitioners : Mr.S.Satheesh Kumar
For Respondents : Mr.N.Chinnaraj

ORDER

This Criminal Original Petition has been filed seeking direction to call for the records pertaining to D.V.A.No.11 of 2018 on the file of the learned Judicial Magistrate No.III, Erode, and quash the same as illegal.

2. Heard Mr.S.Satheesh Kumar, learned counsel appearing for the petitioners and Mr.N.Chinnaraj, learned counsel appearing for the respondents.

3. The petitioners are arrayed as accused in D.V.A.No.11 of 2018 on the file of the learned Judicial Magistrate No.III, Erode. In the above referred case, the first respondent being wife of the first petitioner made allegation against the petitioners as after solemnising the marriage between themselves in the year 2004, she gave birth to twin children and for which her parents spent a sum of Rs.1,50,000/- as a medical expense. At the relevant point of time, even after knowing that she was pregnant, the petitioners herein were not provided sufficient food. Therefore, she left the matrimonial home and thereafter, the petitioners are refused to repay the seethana properties which was given by her parents at the time of marriage. Therefore, the first respondent initiated a proceeding against the petitioners under the provision of Sections 19 to 22 of Domestic Violence Act.

4. In this regard, the learned counsel appearing for the petitioners made a submission that after the marriage, both the first petitioner and the first respondent lead the matrimonial life at Erode, on the other hand, the second petitioner was living in Sattur and thereby there was no domestic relationship between the second petitioner and the first respondent.

5. On the other hand, the learned counsel appearing for the respondents would contend that in the petition filed by the respondents she had mentioned the address of the second petitioner as D.No.286, Kollampalaym Housing Unit, Erode, and therefore, it is made clear that the second petitioner was residing at Erode and lead a joint family along with the first respondent. He would further contend that the question of domestic relationship is a matter for evidence.

6. Now on considering the rival submission made on either side, it is true that when at the time of filing the domestic violence complaint, the permanent address of the second petitioner was shown as she was residing at Erode. It was stated that during the time on which the complaint has been filed she was residing at Sattur. Therefore, whether the second petitioner is having domestic relationship or not is a matter to be decided by the Presiding Officer of the Court by considering evidence recorded in that case.

7. However, the learned counsel appearing for the respondents would contend that before the trial Court on the side of the respondents/petitioners, two witnesses have already been examined and therefore, it would sufficient to direct the trial Judge to dispose the said case within the time as stipulated by this Court.

8. Considering the said submission, in general, after commencement of the trial, unless any specific reason if the case is transferred from one Court to another Court, it would cause prejudice to either party. Therefore, considering the fact and circumstances of the case, I am of the considered opinion that the following order is sufficient to meet the ends of justice in this present petition:-

i) The presence of the second petitioner is dispensed with at present. She shall be present before the Court at the time whenever the Presiding Officer directs.

ii) The learned Judicial Magistrate No.III, Erode is directed to dispose the case in D.V.A.No.11 of 2018 within a period of two months from the date of receipt of copy of this Order.

9. With the above directions, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rts
To

The Judicial Magistrate Court No.III,
Erode.

CrI.O.P.No.21772 of 2019 and
CrI.M.P.Nos.11316 & 11318 of 2019

NRL (CO)
SP(20/01/2021)

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