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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.27306 of 2019

and

Crl.M.P.Nos.14494 & 18955 of 2019

1.Kabali
2.Mohanasundari
3.Mohanaselvi ... Petitioner/Respondent(Accused 2 to 4)

Vs.

1.P.Hemapriya
2.U.Sharavanan (Minor, three years and ten months)
[represented by his natural guardian/mother P.Hemapriya]
... Respondent/Petitioners(Complainant)

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in DVC.No.2 of 2019 and quash the same pending before the learned Additional Mahila Judge (Magistrate level) at Chengalpattu.

For Petitioners : Mr.Syed Nizamuddin Ahmed Hussaini

For Respondents : Mr.G.Mohana Krishnan

ORDER

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.2 of 2019, filed by the respondents herein/complainants, pending on the file of the learned Additional Mahila Judge (Magistrate level) at Chengalpattu.

2 The petitioners are in-laws of the first respondent and the marriage between A1/Uthayasankar and the first respondent Viz.,P.Hemapriya was solemnized on 12.02.2014. 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.2 of 2019, on the file of the learned Additional Mahila Court at Chengalpattu and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No. 2 of 2019 is pending for trial. At this stage, the petitioners



herein who are the in-laws of the first respondent pray to quash the proceedings in D.V.C.No.2 of 2019.

3 The learned counsel appearing for the petitioners submitted that the respondents/complainant has given a complainant before the learned Additional Mahila Judge (magistrate level), Chengalpattu, against the petitioners and the same has been taken on the file as DVC.No.2 of 2019, under Section 12 of the Protection of Women from Domestic Violence, for the offences under Sections, 19, 18, 20 and 22 of the said Act and the same has been pending. As against the same, the petitioners have filed this Criminal Original Petition to quash the proceedings in DVC.No.2 of 2019.

4 Heard Mr.Syed Nizamuddin Ahmed Hussaini, learned counsel for the petitioners and Mr.G.Mohana Krishnan, learned counsel appearing for the respondents and perused the materials placed on record.

5 It is seen that the relief sought for by the respondents 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 first respondent and they are living separately. As such, the protection order sought for by the respondents 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 respondents 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.

6 In view of the above, this Court is inclined to quash the proceedings in DVC.No.2 of 2019, on the file of the learned Additional Mahila Judge (Magistrate level) at Chengalpattu, insofar as these petitioners are concerned, on condition that, they shall ensure that the A1/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.2 of 2019, on the file of the learned Additional Mahila Judge (Magistrate level) at Chengalpattu, 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.



7 Insofar as A1/husband of the first respondent is concerned, since the impugned proceedings in DVC.No.2 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 respondent is directed to appear before the trial Court on the next hearing date, failing which, the respondents are at liberty to approach this Court.

8 In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

The learned Additional Mahila Judge (Magistrate level),
Chengalpattu.

+1cc to Mr.S.N.A.Narayanasamy, Advocate Sr.18490

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srg 01/07/2020