

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2020

CORAM:

THE HON'BLE Mr.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.179 of 2017
and CRL.M.P.Nos.134 & 135 of 2017

1. Anthony Soundararajan
S/o. Thomas
2. Jayamangalam
W/o. Anthony Soundararajan
3. Arokiasamy
S/o. Solomon
4. Jayarani
W/o. Arokiasamy

The 1st & 2nd petitioners are residing at
Door No.71A, Church Street,
Samanthapuram, Palayamkottai-627 002,
Tirunelveli District.

The 3rd & 4th Petitioners are residing at
Door No.715 Periyar Nagar,
Coimbatore-641 045.

.... Petitioners

Vs.

1. Olivia Janet Veronica
W/o. Thomson Dmelo
2. Minor Hannah Joshlyn
Rep. by her Mother and Natural Guardian
Olivia Janet Veronica.
The 1st & 2nd respondents are residing at
No.17, Angammal Layout,
Neelikonampalayam, Coimbatore-641 033.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records of the proceeding in D.V.A.No.24 of 2016 on the file of the Learned Judicial Magistrate No.III, Coimbatore and quash the proceedings against the petitioners.

For Petitioners: Mr.P.M.Duraiswamy
For Respondents: Mr.Rubert J.Barnabas

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.A.No.24 of 2016, filed by the respondents herein, pending on the file of the Judicial Magistrate Court No.III, Coimbatore.

2. The petitioners are in-laws of the first respondent and the marriage between A1/Thomson Dimalo and the first respondent Viz.,. Olivia Janet Veronica was solemnized on 19.02.2014. Thereafter, due to matrimonial disputes the first 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.24 of 2016 on the file of the Judicial Magistrate No.III, Coimbatore 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.24 of 2016 is pending for trial. At this stage, the petitioners herein, who are the in-laws of the respondent pray to quash the proceedings in D.V.A.No.24 of 2016.

3. Heard Mr.P.M.Duraiswamy, learned counsel for the petitioners and Mr.Rubert J.Barnabas, learned counsel appearing for the respondents.

4.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 respondent and they are living separately. As such, the protection order sought for by the respondent 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.

5. In view of the above, this Court is inclined to quash the proceedings in DVA.No.24 of 2016, on the file of the Judicial Magistrate Court No.III, Coimbatore, 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 DVA.No.24 of 2016, on the file of the Judicial Magistrate Court No.III, Coimbatore, 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.

6. Insofar as A1/husband of the first respondent is concerned, since the impugned proceedings in DVA.No.24 of 2016 is pending from the year 2016 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 first respondent is at liberty to approach this Court.

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

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kmi

To
The Judicial Magistrate No.III,
Coimbatore.

Cr1.O.P.No.179 of 2017

RSV(CO)
RMP(29/09/2020)

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