

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM:

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

CRL.O.P.No.19324 of 2017

and

Crl.M.P.Nos.11701 and 11702 of 2017

and Crl.M.P.No.88 of 2018

1.Suwwakin Jebasingh
2.Antony Raj Joseph
3.Jeshinda
4.Jeba Arasi
5.Mercy
6.Menina

... Petitioners/Respondents 1 to 6

Vs.

Arul Jannet Kanaga

... Respondent/Petitioner

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records of the proceedings in D.V.A.No.45 of 2016 pending on the file of the learned Judicial Magistrate Court No.VII, Coimbatore, and quash the same against these petitioners.

For Petitioners: S.Bharathi

For Respondent : Mr.A.S.Bahavat Singh

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.A.No.45 of 2016, filed by the respondent herein, pending on the file of the Judicial Magistrate Court No.VII, Coimbatore.

2. The 1st petitioner is the husband of the respondent and the petitioners 2 to 6 are the in-laws of the respondent and the marriage between 1st petitioner/Suwwakin Jebasingh and the respondent Viz.,Arul Jannet Kanaga was solemnized on 30.12.2011.

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.45 of 2016 on the file of the Judicial Magistrate Court No.VII, 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.45 of 2016 is pending for trial. At this stage, the 1st petitioner who is the husband and the petitioners 2 to 6 who are the in-laws of the respondent pray to quash the proceedings in D.V.A.No.45 of 2016.

3. Heard S.Bharathi, learned counsel for the petitioners and Mr.A.S.Bahavatsingh, 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 petitioners 2 to 6 herein are only in-laws of the respondent. As such, the protection order sought for by the respondent herein in the domestic violence case against the petitioners 2 to 6/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 2 to 6 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 petitioners 2 to 6. In the absence of the same, the proceedings as against the petitioners 2 to 6 cannot be maintained and consequently, the petitioners 2 to 6 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 DV.A.No.45 of 2016, on the file of the Judicial Magistrate Court No.VII, Coimbatore, insofar as the petitioners 2 to 6 are concerned, on condition that, they shall ensure that the 1st petitioner/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 D.V.A.No.45 of 2016, on the file of the Judicial Magistrate Court No.VII, 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 respondent is entitled to withdraw the same.

6. Insofar as 1st petitioner/husband of the respondent is concerned, since the impugned proceedings in D.V.A.No.45 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. The 1st Petitioner/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 insofar as the petitioners 2 to 6 and this Criminal Original Petition stands dismissed as against the 1st petitioner/husband. Consequently, the connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

smv

To

1.The Judicial Magistrate Court No.VII, Coimbatore.

+1cc to Mr.A.S.Bahavath Singh, Advocate, Sr.No.23276

+1cc to M/s. C.Anbu, Advocate, Sr.No.22890

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SAI (CO)
GS (22/07/2020)

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