



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.(MD).No.2367 of 2020

and

Crl.M.P.(MD) Nos.1213 and 1214 of 2020

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1.N.Pandidurai

2.N.Anburani

..Petitioners

Vs.

1.Karthika

2.Minor.Nivetha

(represented by her friend and

Next natural guardian is

first respondent)

..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the D.V.O.P.No.04 of 2019 on the file of the District Munsif Cum Judicial Magistrate Court, Natham, Dindigul District and quash the same.

For Petitioner

: Mr.K.R.Badurus Zaman

O R D E R

This quash petition is filed to quash the criminal proceedings in D.V.O.P.No.04 of 2019 on the file of the District Munsif Cum Judicial Magistrate Court, Natham, Dindigul District.

2.The learned counsel appearing for the petitioners would submit that the first petitioner is the husband and the second petitioner is the mother-in-law of the first respondent/complainant. He would further submit that there was a matrimonial dispute between the first petitioner and the first respondent/complainant and that the first petitioner had filed a petition for divorce in H.M.O.P.No.246 of 2013 before the learned Principal Sub Judge, Dindigul. He would submit that only as a retaliation, the petition under Domestic Violence Act has been filed with false allegation. The learned counsel would submit that there are no specific allegations against the petitioners.

3. This Court is of the opinion that these grounds can be raised before the Court below during the time of enquiry and this Court does not find any ground to interfere with the proceedings, pending before the Court below and accordingly, this Criminal



Original Petition stands dismissed.

4.At this juncture, the learned Counsel for the petitioners submitted that the presence of the petitioners before the Trial Court may be dispensed with.

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5.Accepting the said submission, the presence of the petitioners before the trial Court shall be dispensed with on condition that they shall be duly and properly represented by a counsel on all hearing dates and that they will make themselves available before the Court on the day of passing final orders.

6.The petitioners are further directed to give an undertaking in the form of affidavit that the Counsel representing them will cross examine the complainant and her witnesses on the day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event their presence is insisted by the trial judge for the purpose of Mediation. If the petitioner adopt any dilatorical tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, in State of Uttar Pradesh Vs. Shambunath Singh, reported in 2001 (4) SCC 667. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsg

To:

1.The District Munsif Cum Judicial Magistrate,
Natham, Dindigul District.

2.The Principal Subordinate Judge, Dindigul District.

+1 CC to M/s.K.R.BADURUS ZAMAN, Advocate (SR-5702[F] dated
11/02/2020)

CrI.O.P.(MD).No.2367 of 2020

and

CrI.M.P.(MD) Nos.1213 and 1214 of 2020

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JMN(25.02.2020) 2P : 4C