



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

Crl.O.P. (MD) .No.13403 of 2020

and

Crl.M.P. (MD) Nos.6156 and 6158 of 2020

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1.P.Rajakani
2.Periyaperumal
3.Ponlakshmi

...Petitioners/Respondents 2 to 4

vs.

1.E.Shanthi
2.Aathi Shyam Bala
3.Swetha
4.Akash

(Respondents 2, 3 & 4 are represented through
their mother, guardian/1st respondent)

...Respondents/Petitioners 1 to 4

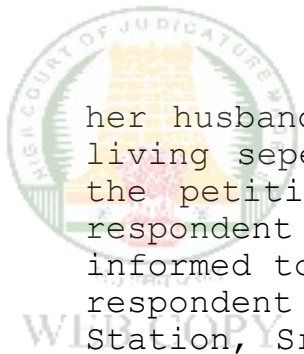
PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the criminal proceedings in D.V.M.C.No.6 of 2020 on the file of the learned Judicial Magistrate Court, Srivaikundam, Thoothukudi District and quash the same as far as the petitioners are concerned.

For Petitioners : Mr.S.Mandhiralingeswaran

O R D E R

This Criminal Original Petition has been filed to call for the records pertaining to the criminal proceedings in D.V.M.C.No.6 of 2020 on the file of the learned Judicial Magistrate Court, Srivaikundam, Thoothukudi District and quash the same as far as the petitioners are concerned.

2.The learned counsel appearing for the petitioners reiterated the contentions set out in the original petition. One Erattaimuthu is the husband of the first respondent herein. The first petitioner is the sister of the said Erattaimuthu. The second petitioner is the husband of the first petitioner and the third petitioner is the daughter of the petitioners 1 and 2. The marriage between the first respondent and the said Erattaimuthu was solemnized on 28.08.2006. Due to their wedlock, three children were born namely respondents 2 to 4 herein. The first respondent alleges that the petitioners gave a wrong information as if the said Erattaimuthu owned Grocery Shop and conducted marriage with her. Thereafter, the petitioners abducted the said Grocery Shop and left



her husband. Due to that the first respondent and her husband were living separately. In this circumstances, due to the inducement of the petitioners, the said Erattaimuhtu daily harassed the first respondent in a cruel manner by consuming alcohol. When the same was informed to the petitioners, there have refused it. Hence, the first respondent had given a complaint before the All Women Police Station, Srivaikundam and the same is pending without any progress. Thereafter, she had lodged a private complaint against the petitioners herein under Section 12 of Protection of Women From Domestic Violence Act, 2005 and claim the reliefs under Sections 18 (a), 19(a)(c), 20 and 22 of the Act, 2005. The said private complaint was numbered as D.V.M.C.No.6 of 2020 and the same is pending before the learned Judicial Magistrate, Srivaikundam, Thoothukudi District. Now, the petitioners have filed the present petition to quash the proceedings initiated in the said D.V.M.C.

3. Heard the learned counsel for the petitioners and perused the materials available on record. Since no adverse order is going to be passed, notice to the respondents is not necessary.

4. The Hon'ble Supreme Court by judgment dated 02.12.2019 in **Crl.A.No.1817 of 2019 in the case of M.Jayanthi vs. K.R.Meenakshi and another** has held as follows:-

'9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.'

5. Here in the present case, the complainant had made specific allegations in the complaint filed against the petitioners and therefore, it will be too early to interfere in the above complaint. Considering the facts and circumstances of the case, the personal appearance of the petitioners before the trial Court is dispensed with except during the dates on which, the learned Judicial Magistrate insists their appearance if it is necessary. Considering the facts and circumstance of the case, the learned Judicial Magistrate, Srivaikundam, Thoothukudi District is directed to conclude the entire trial proceedings in D.V.M.C.No.6 of 2020, within a period of six months from the date of receipt of a copy of this order.



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

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Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

msa

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Judicial Magistrate
Srivaikundam
Thoothukudi District.

Crl.O.P.(MD).No.13403 of 2020

and

Crl.M.P.(MD) Nos.6156 and 6158 of 2020
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CK(CO)

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