



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.10.2020

CORAM

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

Crl.O.P. (MD)No.19698 of 2016

and

Crl.M.P. (MD)Nos.9973 & 9974 of 2016

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A.Vijayaraj

... Petitioner

-vs-

V.Rajeshwari

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the case in DVOP.No.8 of 2016 on the file of the learned Judicial Magistrate, Nilakkottai, Dindigul District and quash the same.

For Petitioner : Mr.K.Guhan
For Respondent : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the case in DVOP.No.8 of 2016 on the file of the learned Judicial Magistrate, Nilakkottai, Dindigul District

2.The learned counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 10.06.1992. Thereafter, without any reason, the respondent left the matrimonial home. Hence, the petitioner filed a petition for restitution of conjugal rights in HMOP.No.62 of 1994 before the Sub Court, Periyakulam. Subsequently, there was a settlement arrived between them and they got re-united. Again the respondent left the matrimonial home in the year 2014 and hence, the petitioner filed a petition for divorce in HMOP.No.42 of 2015 before the Sub Court, Uthamapalayam, on the ground of cruelty.

3.After receipt of notice from the said divorce petition, the respondent filed a petition for restitution of conjugal rights in HMOP.No.60 of 2015 before the Principal Sub Court, Dindigul. Thereafter, a transfer petition in Tr.C.M.P.No.349 of 2016 was also filed to transfer HMOP.No.60 of 2015 from the file of the Principal Sub Court, Dindigul to the file of the Sub-Court, Uthamapalayam and the same was also allowed. Again the respondent filed a complaint under the Domestic Violence Act in M.C.No.21 of 2015 seeking relief under Sections 18, 19, 20, 22 and 23 of the Domestic Violence Act on 08.09.2015 before the learned Judicial Magistrate, Uthamapalayam. While pending the said complaint, the respondent again filed another complaint in DVOP.No.8 of 2016 on the file of the learned Judicial Magistrate, Nilakkottai, Dindigul District, for the very same



relief. Therefore, it is nothing but clear abuse of process of law.

4.Though notice served on the respondent and name printed in the cause-list, the respondent has not appeared in person or through counsel.

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5.Heard the learned counsel appearing for the petitioner.

6.The petitioner and the respondent are husband and wife. They got married on 10.06.1992. Due to strained relationship, they got separated as such, the petitioner filed a petition for divorce in HMOP.No.42 of 2015 before the Sub Court, Uthamapalayam. Thereafter, the respondent filed a petition for restitution of conjugal rights in HMOP.No.60 of 2015 before the Principal Sub Court, Dindigul. Thereafter, a transfer petition in Tr.C.M.P.No.349 of 2016 was also filed to transfer HMOP.No.60 of 2015 from the file of the Principal Sub Court, Dindigul to the file of the Sub-Court, Uthamapalayam and the same was also allowed. Again the respondent filed a complaint under the Domestic Violence Act in M.C.No.21 of 2015 seeking relief under Sections 18, 19, 20, 22 and 23 of the Domestic Violence Act on 08.09.2015 before the learned Judicial Magistrate, Uthamapalayam. While pending the said complaint, the respondent again filed another complaint in DVOP.No.8 of 2016 on the file of the learned Judicial Magistrate, Nilakkottai, Dindigul District, for the very same relief.

7.The learned counsel appearing for the petitioner brought to the notice of this Court that now domestic complaint filed by the respondent in M.C.No.21 of 2015 is dismissed for default on 06.07.2017. Therefore, the present complaint is nothing but clear abuse of process of law and it cannot be sustain as against the petitioner herein. That apart, the petitioner and the respondent have one male and one female child. Now, the female child got married and she is living separately. The male child is in the custody of the petitioner. When the first complaint is very much pending, there is no need to file another complaint.

8.In view of the above, the case in DVOP.No.8 of 2016 on the file of the learned Judicial Magistrate, Nilakkottai, Dindigul District is set aside and this criminal original petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

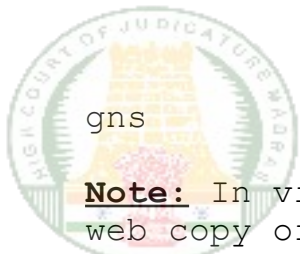
Sd/-

Assistant Registrar (ADII)

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Sub Assistant Registrar(CS)



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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, Nilakkottai, Dindigul District

+1 CC to M/s.K.GUHAN, Advocate (SR-20757[F] dated 02/11/2020)

Crl.O.P. (MD) No.19698 of 2016
29.10.2020

VR (CO)

KB (20.11.2020) 3P 3C