



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 15/10/2020

PRESENT

The Hon'ble Mr.Justice **G.K.ILANTHIRAIYAN**

Crl.O.P. (MD)No.20473 of 2016

and

Crl.M.P. (MD)Nos.10412 and 10413 of 2016

Shiny Priya

...Petitioner/Respondent No.4

-Vs-

S.Regina Perinbam

... Respondent/Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for records pertaining to the case in DVOP.No.25 of 2016 pending on the file of the Judicial Magistrate No.1, Thoothukudi District and quash the same as against the petitioner.

For Petitioner	: Mr.R.Anand
For Respondent	: Mr.B.N.Raja Mohamed

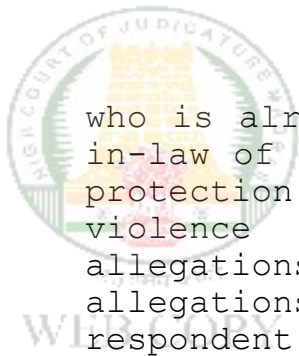
O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.O.P.No.25 of 2016 pending on the file of the learned Judicial Magistrate No.1, Thoothukudi District as against the petitioner.

2.The petitioner is in-law of the respondent and the marriage between A1/M.Gunasekaran and the respondent viz., S.Regina Perinbam was solemnized on 23.11.2012. 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.O.P.No.25 of 2016 on the file of the learned Judicial Magistrate No.1, Thoothukudi District and implicated the petitioner as party to the petition and sought action as against her under Domestic Violence Act. The said D.V.O.P.No.25 of 2016 is pending for trial. At this stage, the petitioner, who is the in-law of the respondent, pray to quash the proceedings in D.V.O.P.No.25 of 2016.

3. Heard the learned counsel for the petitioner and the learned counsel 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 petitioner herein is only in-law of the respondent and she is living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against the petitioner/in-law, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioner 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 the petitioner. In the absence of the same, the proceedings as against the petitioner cannot be maintained and consequently, the petitioner 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 D.V.O.P.No.25 of 2016 on the file of the learned Judicial Magistrate No.1, Thoothukudi District, insofar as the petitioner is concerned, on condition that, she shall ensure that the A1/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.O.P.No.25 of 2016, on the file of the learned Judicial Magistrate No.1, Thoothukudi District, 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 A1/husband of the respondent is concerned, since the impugned proceedings in D.V.O.P.No.25 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 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. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

Vsd
To

1. The Judicial Magistrate No.1,
Thoothukudi District.

<https://hcservices.ecourts.gov.in/hcservices/>



2. -Do- Through The Chief Judicial Magistrate,
Thoothukudi District.

3.The Section Officer, (2 copies)
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD) No.20473 of 2016
and
Crl.M.P. (MD) Nos.10412 and 10413 of 2016
15.10.2020

VB (04.11.2020) 3P 5C