



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.21624 of 2016

and

Cr.M.P(MD)Nos.11109 & 11110 of 2016

WEB COPY

Pandiyan

...Petitioner/Respondent No.4

Vs.

K.M.Gayathri

... Respondent/Petitioner

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the case in M.C.No.85 of 2015 on the file of the Additional Mahila Court/Judicial Magistrate Level, Madurai and quash the same as against the Petitioner /Respondent No.4.

For Petitioner : Mr.R.Venkateswaran

For Respondent : Mr.S.Muthumalai Raja

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in M.C.No.85 of 2015 pending on the file of the Additional Mahila Court/Judicial Magistrate Level, Madurai as against the Petitioner /Respondent No.4.

2. The petitioner is not relative of the respondent's husband and the marriage between Al/**Ramprabu** and the respondent Viz., **Gayathridevi** was solemnized on **20.01.2014**. 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 Protection of Women from Domestic Violence Act in M.C. No.85 of 2015 on the file of the Additional Mahila Court/Magistrate Level, Madurai and implicated the petitioner as party to the petition and sought action as against him under Protection of Women from Domestic Violence Act. The said M.C. No.85 of 2015 is pending for trial. At this stage, the petitioner herein who is not relative of the respondent's husband pray to quash the proceedings in M.C. No.85 of 2015 .

3.Heard Mr.R. Venkateswaran, learned counsel for the petitioner and Mr. S. Muthumalai Raja, learned counsel appearing for the respondent.

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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 not relative of the respondent and he is living separately. As such, the protection order sought for by the respondent herein in the Protection of Women from Domestic Violence case against the petitioner, 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 Domestic Violence as defined under Protection of Women from 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 M.C. No.85 of 2015, on the file of the Additional Mahila Court/Judicial Magistrate Level, Madurai, insofar as the petitioner is concerned.

6. Insofar as A1/husband of the respondent is concerned, since the impugned proceedings in M.C. No.85 of 2015 is pending from the year 2015 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)

ksa

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

1. The Additional Mahila Court/Judicial Magistrate Level,
Madurai.

2. Do Through The Chief Judicial Magistrate, Madurai.

CrI.O.P. (MD) No.21624 of 2016
13.10.2020

KMV (CO)
TR (04.11.2020) 3P 3C