



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 30.11.2020

PRESENT

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

Crl.O.P. (MD) No.23738 of 2016

1.N.Prabakaran

2.Muthulakshmi

3.Nagarajan

.... Petitioners/Respondent Nos.1 to 3

-Vs-

1.Ovammal

2.Minor.Mithra

(Represented by Mother/ Guardian by name Ovammal)

... Respondents/Petitioners

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for records connected with the proceedings in D.V.C.No.34 of 2016 pending on the file of the Judicial Magistrate No.II, Sattur in Virudhunagar District and quash the same as illegal.

For Petitioners

: Mr.S.Malaikani

For Respondents

: Mr.M.S.Jeyakarthick

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.34 of 2016 pending on the file of the learned Judicial Magistrate No.II, Sattur, Virudhunagar District, as against the petitioners.

2.The first petitioner is the husband of the first respondent and the petitioners 2 and 3 are in-laws of the first respondent and the marriage between the first petitioner/Prabakaran and the first respondent viz., Ovammal was solemnized on 13.04.2014. Thereafter, due to matrimonial disputes the first respondent and her husband were living separately from the matrimonial home. Under this circumstance, the first respondent herein filed a petition under Domestic Violence Act in D.V.C.No.34 of 2016 on the file of the learned Judicial Magistrate No.II, Sattur, Virudhunagar District and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.34 of 2016 is pending for trial. At this stage, the first petitioner, who is the husband and the petitioners 2 and 3 herein, who are the in-laws of the first respondent, pray to quash the proceedings in D.V.C.No.34 of 2016.

3.Heard the learned counsel for the petitioners and the learned counsel for the respondents.

4.It is seen that the relief sought for by the first respondent in the domestic violence case with regard to residential rights,

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compensation, etc., can be made and claimed as against her husband/first petitioner, who is already a party in that case. Hence, this Criminal Original Petition is dismissed as far as the first petitioner/husband is concerned. The petitioners 2 and 3 herein are only in-laws of the first respondent and they are living separately. As such, the protection order sought for by the first respondent herein in the domestic violence case against the petitioners 2 and 3/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 2 and 3 against the first 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 petitioners 2 and 3. In the absence of the same, the proceedings as against the petitioners 2 and 3 cannot be maintained and consequently, the petitioners 2 and 3 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.C.No.34 of 2016 on the file of the learned Judicial Magistrate No.II, Sattur, Virudhunagar District, insofar as the petitioners 2 and 3 are concerned, on condition that, they shall ensure that the first petitioner / husband of the first respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of in D.V.C.No.34 of 2016 pending on the file of the learned Judicial Magistrate No.II, Sattur, Virudhunagar 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 first respondent is entitled to withdraw the same.

6. Insofar as the first petitioner/husband of the first respondent is concerned, this Petition is dismissed. Since the impugned proceedings in D.V.C.No.34 of 2016, is pending from the year of 2016, 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, if not already disposed of. The first petitioner/husband of the first respondent is directed to appear before the trial Court on the next hearing date, failing which, the first respondent is at liberty to approach this Court.

7. In the result, this Criminal Original Petition is partly allowed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



vsd

To

The Judicial Magistrate No.II, Sattur,
Virudhunagar District.

Copy to:

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

+1 CC to M/s.M.S. JEYAKARTHIK, Advocate (SR-23397[F] dated
01/12/2020)

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sss (CO)
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