



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.23739 of 2016

N.Selvarani

...Petitioner/Respondent No.4

-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 the entire records connected with the proceedings in D.V.C.No.34 of 2016 pending on the file of the Judicial Magistrate No.II, Sattur, Virudhunagar District and quash the same as illegal.

For Petitioner : Mr.S.Malaikani

For Respondents : Mr.M.S.Jeyakarthick

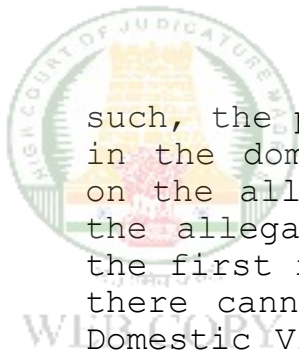
O R D E R

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 petitioner.

2.The petitioner is in-law of the first respondent and the marriage between Al/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 petitioner as party to the petition and sought action as against her under Domestic Violence Act. The said D.V.C. No.34 of 2016 is pending for trial. At this stage, the petitioner, who is the in-law of the first respondent, pray to quash the proceedings in D.V.C.No.34 of 2016.

3. Heard the learned counsel for the petitioner 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, 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 first respondent and she is living separately. As



such, the protection order sought for by the first 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 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 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.C.No.34 of 2016 on the file of the learned Judicial Magistrate No.II, Sattur, Virudhunagar District, insofar as the petitioner is concerned, on condition that, she shall ensure that the A1/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 D.V.C.No.34 of 2016 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 A1/husband of the respondent is concerned, since the impugned proceedings in D.V.C.No.34 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, if not already disposed of. A1/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 stands 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)

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30.11.2020

sss(CO)
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