



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:02.12.2020

CORAM

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

Crl.O.P.(MD).No.23768 of 2016

and

Crl.M.P.(MD).No.12557 of 2016

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1.T.Petchimuthu
2.P.Thirumalaisamy
3.Muthumeenachi
4.T.Balasubramanian
5.Vijayaponnammal
6.S.Sankaravadiu

... Petitioners

Vs

1.Mala
2.P.Varshini

... Respondents

PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C, praying to call for the entire records relating to M.C.No.2 of 2015, on the file of the Judicial Magistrate No.I, Thoothukudi and quash the same.

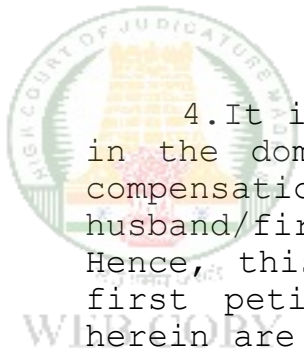
For Petitioners : Mr.S.Muthalraj
For respondents : Mr.A.Thiruvadikumar

ORDER

This criminal original petition has been filed to quash the proceedings in M.C.No.2 of 2015, on the file of the Judicial Magistrate No.I, Thoothukudi as against the petitioners.

2.The first petitioner is the husband of the first respondent and the petitioners 2 to 6 are in-laws of the first respondent and the marriage between the first petitioner viz., **T.Petchimuthu** and the first respondent Viz., **mala** was solemnized on **18.01.2013**. Thereafter, due to matrimonial disputes the first respondent and the first petitioner were living separately from the matrimonial home. Under this circumstance, the first respondent herein filed a petition under Domestic Violence Act in M.C.No.2 of 2015 on the file of the learned Judicial Magistrate No.I, Thoothukudi, and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said M.C.No.2 of 2015 is pending for trial. At this stage, the first petitioner, who is the husband and the petitioners 2 to 6 herein, who are the in-laws of the first respondent, pray to quash the proceedings in M.C.No.2 of 2015.

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, 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 to 6 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 to 6/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 to 6 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 to 6. In the absence of the same, the proceedings as against the petitioners 2 to 6 cannot be maintained and consequently, the petitioners 2 to 6 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.2 of 2015 on the file of the learned Judicial Magistrate No.I, Thoothukudi, insofar as the petitioners 2 to 6 are concerned, on condition that, they shall ensure that the first petitioner/ 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 in M.C.No.2 of 2015 on the file of the learned Judicial Magistrate No.I, Thoothukudi, 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 respondent is concerned, this Petition is dismissed. Since the impugned proceedings in M.C.No.2 of 2015, is pending , 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. The first petitioner/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 is partly allowed. Consequently, connected miscellaneous petition is closed.

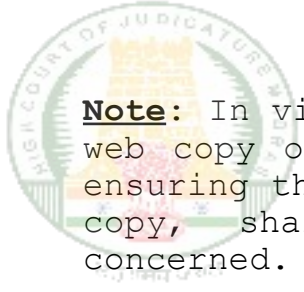
Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar(CS)



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.

WEB COPY

To:
The Judicial Magistrate No.I,
Thoothukudi.

Crl.O.P.(MD).No.23768 of 2016
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SJ(CO)
AP(17/12/2020) 3P 2C