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CRL.O.P.(MD)NO.5688 OF 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2020

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THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.5688 of 2016 and

Crl.M.P.(MD)Nos.2819 & 2820 of 2016 and

Crl.M.P.(MD)No.9421 of 2017

1. Dhilip Raja
2. Sahul Hameed
3. Ayesha Begam
4. Rafeek Raja
5. Benazir Faritha

... Petitioners/Accused

Vs.

1. Kalima Banu
2. Minor D.Shahima Banu
(R-1 as the mother and
guardian of the minor R-2)

... Respondents/
Defacto Complainants

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned proceedings in M.C.No.5 of 2016 on the file of the learned Judicial Magistrate, Uthamapalayam and quash the same as far as the petitioner is concerned.

For Petitioners : Mr.N.Mohideen Basha
For Respondents : Mr.K.K.Samy

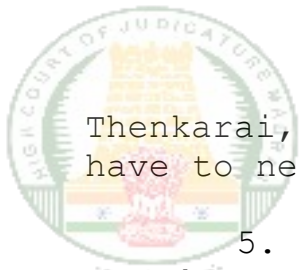
O R D E R

The petitioners are shown as respondents in M.C.No.5 of 2016 on the file of the learned Judicial Magistrate, Uthamapalayam.

2. The respondents are the petitioners in the said M.C.No.5 of 2016. To quash the same, this criminal original petition has been filed.

3. Heard the learned counsel on either side.

4. It is seen from the very face of it, petitioners 4 and 5 were not part of the shared household. Therefore, the impugned proceedings are not maintainable as far as petitioners 4 and 5 are concerned. However, it is seen from the materials on record that the first respondent was having her matrimonial home only at



Thenkarai, Periyakulam. Therefore, the impugned proceedings will have to necessarily go on against petitioners 1 to 3.

5. In this view of the matter, the impugned proceedings stand quashed as far as petitioners 4 and 5 are concerned. It is made clear that this Court has not gone into the merits of the matter. All the contentions and the defences of petitioners 1 to 3 are left open. This criminal original petition stands partly allowed. However, the personal appearance of petitioners 2 and 3 are dispensed with.

6. The learned trial Magistrate shall insist on the personal appearance of petitioners 2 and 3 only when it is absolutely necessary and imperative. Petitioners 2 and 3 shall be called upon to appear in person before the trial Court at the time of answering the charges and at the time of examination under Section 313 of Cr.P.C., and at the time of pronouncement of Judgment. On all other occasions, petitioners 2 and 3 can be represented through their counsel. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

To:

1. The Judicial Magistrate,
Uthamapalayam.

+1CC TO MR.K.K.SAMY, Advocate Sr. No.605

+1CC TO MR.N.MOHIDEEN BASHA, Advocate Sr. No. 1224

Crl.O.P.(MD)No.5688 of 2016 and
Crl.M.P.(MD)Nos.2819 & 3232 of 2016 and
Crl.M.P.(MD)No.9421 of 2017
07.01.2020

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