



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 07.08.2020
DELIVERED ON : 18.08.2020

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE **R. PONGIAPPAN**

Crl.O.P.(MD)No.12162 of 2018
and
Crl.M.P.(MD) Nos.5520 & 5521 of 2018

1.Ayyadurai

2.Amirthavalli

3.A.Parthasarathi

4.Sivasathya

5.A.Karthick

6.Abirami

... Petitioners/Respondents

Vs.

Tamil Alagi

... Respondent/ Complainant

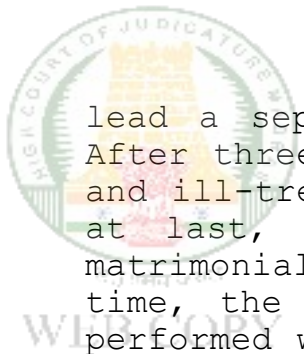
PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in M.C.No.10 of 2015 on the file of the Judicial Magistrate, Theni and quash the same.

For Petitioners : Mr.M.A.M.Raja
For Respondent : Mr.C.Jeganathan

O R D E R

This Criminal Original Petition has been filed seeking the relief to call for the records in M.C.No.10 of 2015 on the file of the Judicial Magistrate Court, Theni and quash the same as illegal.

2.The case of the petitioners are that the respondent / complainant is the daughter-in-law of the first petitioner. The second petitioner is the wife of the first petitioner, the third and fifth petitioners are the sons of the first petitioner, fourth and sixth petitioners are the wives of the third and fifth petitioners respectively. The respondent got married on 19.02.2014 with one Samarasam, who is none other than the one of the son of the first petitioner. At the time of marriage, the said Samarasam was working as an employee in A.T.K. Mills, Theni. Further, the first petitioner had did everything for the matrimonial life of the respondent / complainant. The complainant and the said Samarasam



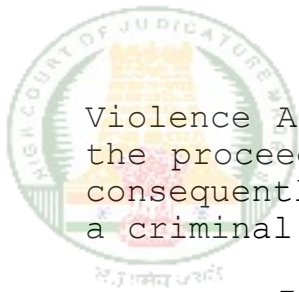
lead a separate matrimonial life in the matrimonial home lonely. After three months of the matrimonial life, the complainant scolded and ill-treated the said Samarasam without any reasonable cause and at last, the complainant had quarreled with him and left the matrimonial home and started to live with their parents. At that time, the complainant had conceived and Valaikappu function was performed without informing and inviting the said Samarasam and his family members i.e. the petitioners. By this act, the said Samarasam was totally upset and had committed suicide on 03.09.2014.

3.After the evil event of suicide of the said Samarasam, the respondent had tried to take revenge on the petitioners, hence the complainant with her family members came to the petitioners' house and assaulted them with deadly weapons and hence, the fifth petitioner had lodged a complaint before the Superintendent of Police, Theni on 05.09.2014, for which the Inspector of Police, Theni, did not take any action against the respondent / complainant. On the other hand, the Inspector of Police, Theni, had registered a case against the petitioners in Crime No.387 of 2014, based on the complaint given by the respondent/complainant and thereafter, again the respondent / complainant filed the present petition against the petitioners, under Section 12 of the Protection of Women from Domestic Violence Act, 2005 in M.C.No.10 of 2015, and it is still pending before the Judicial Magistrate Court, Theni. Accordingly, the petitioners pray to quash the proceedings initiated in M.C.No.10 of 2015, on the file of the Judicial Magistrate Court, Theni.

4.Heard, the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent.

5.The first and foremost contention of the petitioners are after solemnization of the marriage between the respondent / complainant and Samarasam, the petitioners are living separately. In fact the petitioners 1 and 2 being the husband and wife, lived together in a separate home and the petitioners 3 and 5 have lead their matrimonial life along with their spouses in a separate home and therefore, filing of the complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005, cannot be attracted against the petitioners.

6.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 has already died. The petitioners herein are only in-laws of the respondent and they are living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against the petitioners, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners against the respondent itself seems to be a false one. While that being so, there cannot be any domestic violence as defined under the Domestic



Violence Act against the petitioners. In the absence of the same, the proceedings as against the petitioners cannot be maintained and consequently, the petitioners need not undergo the ordeal of facing a criminal trial.

7.In view of the above, this Court is inclined to quash the proceedings in M.C.No.10 of 2015 on the file of the learned Judicial Magistrate, Theni.

8.In the result, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

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/ /2020

Sub Assistant Registrar

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

The Judicial Magistrate,
Theni.

+2. C.C. to M/S.M.A.M.Raja, Advocate SR.No. 14566

order in
Crl.O.P. (MD) No.12162 of 2018
18.08.2020

rm

JM/26.08.2020/3P/4C