



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Orders Reserved on	20.08.2020
Orders Pronounced on	26.08.2020

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CORAM:

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

Crl.O.P.[MD]No.15707 of 2018
and
CRL MP (MD) Nos.6957 & 6958 of 2018

1.Suresh Abraham Prathap
2.A.Sundar Raj
3.Mary
4.Emerson

... Petitioners / R1 to R4

*(In respect of 1st petitioner this petition
was dismissed as withdrawn, vide order
of this Court, dated 04.09.2018)

Vs.

Bala

...Respondent / Petitioner

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in the Petition in D.V.O.P.No.09 of 2018, on the file of the learned Judicial Magistrate, Sathankulam, Thoothukudi District, and quash the proceedings as against the petitioners herein initiated on the basis of the petition filed by the respondent.

For Petitioners : Mr.A.Thiruvadikumar

For Respondent : Mr.Xavier Rajini

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.O.P. No.9 of 2018, on the file of the learned Judicial Magistrate, Sathankulam, Thoothukudi District.



2. On earlier occasion, when the petition was taken up for hearing, the learned counsel appearing for the petitioners sought permission of this Court to withdraw this petition in respect of the 1st petitioner / husband and the same was ordered to be withdrawn on 04.09.2018.

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3. Heard the learned counsel for the petitioners 2 to 4 and the learned counsel for the respondent.

4. The petitioners 2 to 4 are in-laws of the respondent and the marriage between the first petitioner/ Suresh Abraham Prathap and the respondent Viz., Bala was solemnized on 12.01.2019. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home. Under this circumstance, the respondent herein filed a petition under Domestic Violence Act in DVOP No.9 of 2018 on the file of the learned Judicial Magistrate, Sathankulam, Thoothukudi District and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.O.P.No.9 of 2018 is pending for trial. At this stage, the petitioners 2 to 4 herein, who are the in-laws of the respondent, pray to quash the proceedings in D.V.O.P.No.9 of 2018.

5. 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 is already a party in that case. The petitioners 2 to 4 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 2 to 4/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 4 against the 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 4. In the absence of the same, the proceedings as against the petitioners 2 to 4 cannot be maintained and consequently, the petitioners 2 to 4 need not undergo the ordeal of facing a criminal trial.

6. In view of the above, this Court is inclined to quash the proceedings in D.V.O.P.No.9 of 2018, on the file of the learned Judicial Magistrate, Sathankulam, Thoothukudi District insofar as the petitioners 2 to 4 are concerned.

7. Since the impugned proceedings in D.V.O.P.No.9 of 2018 is pending, it would be appropriate to direct the trial Court to complete the trial within a period of three months from the date of receipt of a copy of this order. The 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.



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

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Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

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.

To

1.The Judicial Magistrate,
Sathankulam,
Thoothukudi District,

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S. XAVIER RAJINI, Advocate (SR-15055[F] dated 27/08/2020)

+1 CC to M/s.A. THIRUVADIKUMAR, Advocate (SR-15145[F] dated 27/08/2020)

Order made in
Crl.O.P.[MD]No.15707 of 2018
26.08.2020

MPK
SDS (07.09.2020) 3P-5C