



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 08.12.2020

PRESENT

The Hon'ble Mr. Justice **G.K. ILANTHIRAIYAN**

Crl.O.P. (MD) No.13881 of 2017

and

Crl.M.P (MD) Nos.9312 and 9313 of 2017

WEB COPY

1.Jaya Braga

2.Kasthuri

... Petitioners/Accused Nos.4 & 5

-Vs-

Usha Bhuvaneshwari

... Respondent/Defacto Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the private complainant in D.V.C.No.01 of 2016 on the file of the Judicial Magistrate Court, Mudukulathur, Ramanathapuram District filed under Sections 12, 18, 19 and 20 of the Protection of Women from Domestic Violence Act, 2005 and quash the same as illegal as against the petitioner's are concerned and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Petitioners

: Mr.T.Lajapathi Roy

For Respondent

: Mr.D.Balamuruga Pandi

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.01 of 2016 on the file of the learned Judicial Magistrate, Mudukulathur, Ramanathapuram District, as against the petitioners.

2.The petitioners are in-laws of the respondent and the marriage between Al/Ashok Kumar @ Premnath and the respondent viz., Usha Bhuvaneshwari was solemnized on 27.08.2015. Thereafter, due to matrimonial dispute 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 D.V.C.No.01 of 2016 on the file of the learned Judicial Magistrate, Mudukulathur, Ramanathapuram District and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.01 of 2016 is pending for trial. At this stage, the petitioners, who are the in-laws of the respondent, pray to quash the proceedings in D.V.C.No.01 of 2016.

3.Heard the learned counsel for the petitioners and the learned counsel for the respondent.



4.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/A1, who is already a party in that case. 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 /in-laws, 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 false. While that being so, there cannot be any act of any domestic violence as defined under 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.

5.In view of the above, this Court is inclined to quash the proceedings in D.V.C.No.01 of 2016 on the file of the learned Judicial Magistrate, Mudukulathur, Ramanathapuram District, insofar as the petitioners are concerned, on condition that, they shall ensure that A1 / 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 D.V.C.No.01 of 2016 pending on the file of the learned Judicial Magistrate, Mudukulathur, Ramanathapuram 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 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.01 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. A1/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 stands allowed. Consequently, connected miscellaneous petitions are closed.

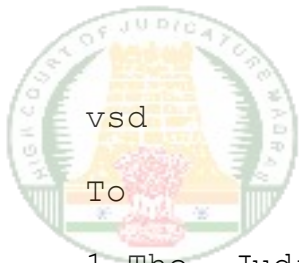
Sd/-

Assistant Registrar (ADII)

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/ /2021

Sub Assistant Registrar(CS)



1.The Judicial Magistrate,
Mudukulathur,
Ramanathapuram District

+2CC to M/s T.Lajapathi Roy, Advocate, SR.No.24787 dated 10.12.2020

CrI.O.P. (MD) No.13881 of 2017
and
CrI.M.P (MD) Nos.9312 and 9313 of 2017
08.12.2020

TP (CO)
KB (05.01.2021) 3P 3C