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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.O.P No.6075 of 2018
and
Crl.M.P Nos.3044 & 3045 of 2018

1. Victoria Arul Doss

2. Sunil Franklin

...Petitioners

Vs.

Adlin Mannah

.. Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash DVC.No.177 of 2017 pending on the file of the Mahila Court, Egmore.

For Petitioner : Mr.C.Daniel

For Respondent : Mr.G.Balasubramaniam

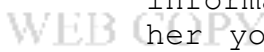
ORDER

This petition has been filed to quash the proceedings in DVC.No.177 of 2017 pending on the file of the Mahila Court, Egmore.

2. The facts of the present case are as follows:

The first petitioner is the mother of the deceased and the second petitioner is the elder brother. The respondent is the wife of the deceased. The marriage between the deceased and the respondent was solemnized on 12.12.2007. After the marriage, the deceased, a Doctor by profession, attached to Perambur Railway Hospital, was allotted quarters and the spouses started their matrimonial life there.

3. It is the case of the first petitioner that there were frequent quarrel between the spouses. The respondent often behaved in a violent way and even assaulted her husband, who is



4. Whileso, on 06.10.2015, the petitioners got an information from the Doctors at Perambur Railway Hospital that her younger son has committed suicide. At that time, the first petitioner was residing in Coimbatore and she came to Chennai by taking a flight. The petitioners have filed a petition in Crl.OP.No.710 of 2016 seeking a direction to the respondent police to register FIR against the respondent and her parents. That was disposed of vide order dated 12.01.2016 directing the respondent police to include the complaint given by the petitioner and the same was registered by the respondent police in Cr.No.1852 of 2015. The petitioners again approached this Court by filing a petition in Crl.OP.No.15108 of 2016 seeking a direction upon the Director General of Police and Commissioner of Police to transfer the investigation in Crime No.1852 of 2015 to CBCID. The said petition was allowed and direction was issued to the Director General of Police to transfer the investigation to CBCID and that the Additional Director General of Police, CBCID shall monitor the investigation. Based on such order, the matter was transferred to Deputy Superintendent of Police, Crime Branch, CID, Organized Crime Unit, Chennai. The said officer caused an investigation and examined the witnesses. The investigation is said to be still pending.

6. Heard the learned counsel for the petitioners as well as the respondent and perused the materials available on record.

8. It is an admitted fact that the marriage between the deceased and the respondent took place in the year 2007. The deceased is alleged to have committed suicide in the year 2017. The circumstances surrounding the manner in which the deceased committed suicide is still under investigation and the police is yet to file the charge sheet. While that being so, in the year 2017, the respondent has preferred a complaint under the Domestic Violence Act against the petitioners. As noted above,



the first petitioner has been diligent enough to pursue the complaint given by them to ascertain the cause of death of her son and indeed the petitioners have filed a original petition seeking a direction to the Director General of Police to transfer the investigation from the local police to CBCID, which was considered in their favour. Accordingly, investigation is being conducted by the Superintendent of Police, CBCID, but final report is yet to be filed in this case. It is evident from the materials available on record that during the course of such investigation, the respondent and her relatives were also examined by the XI Metropolitan Magistrate, Saidapet and their statements under Section 164 Cr.P.C. was also recorded. The investigation is said to be still pending.

9. It is evident from the above that only as an afterthought and counter blast, the present petition under Domestic Violence Act has been filed by the respondent. It is the admitted case that the respondent and the deceased were residing separately in the Railway Quarters. Further, it is curious to note that the respondent has stated in her complaint that the petitioners, who are the mother and brother of the deceased respectively and the second petitioners wife have also resided in the said quarters along with the deceased and his wife, who is the respondent herein. The said assertion is highly unbelievable, since the second petitioner is said to be a resident of Coimbatore. The respondent has also lodged a complaint against the wife of the second petitioner. This act of the respondent is nothing but an attempt to put pressure on the petitioners to go slow with their complaint filed to ascertain the cause of the death of the deceased. In the event, the investigation by the CBCID concludes that the death of the deceased is not suicide but is a homicide, then the matter would assume greater proportion and have major ramifications. Further, except for making the complaint under the Domestic Violence Act, no other materials whatsoever has been placed by the respondent to show the nature of domestic violence perpetrated on her, more so when it is clear that the petitioners and the respondent were not living as a joint family. In such a backdrop, prima facie, this Court is of the opinion that no case is made out for continuing the trial against the petitioners. Further, allowing the case to continue would not only cause hardship to the petitioners, but it would be travesty of justice as on a frivolous petition. The petitioners are made to go through the rigor of trial. Therefore, this Court is of the considered view that continuing the case would not be in the interest of justice and it is liable to be quashed.

10. In the result, this Criminal Original Petition is allowed and the proceedings in DVC.No.177 of 2017 on the file



of the learned Mahila Court, Egmore is quashed. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Judge,
Mahila Court,
Egmore.

+1cc to M/s.G.Balasubramanian, Advocate, S.R.No.46637

+2ccs to M/s.Daniel & Gladys, Advocate, S.R.No.46655

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and
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RGN(CO)
SU(17/11/2021)