



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 16/12/2021

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No.26261 of 2017

and

CrI.M.P.Nos.15131 and 15132 of 2017

1. M. Elaya Perumal

2. Ambika

... Petitioners

Vs

M. Sathiyavani

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to M.C.No.20 of 2014, on the file of the learned Judicial Magistrate No.I, Vellore and quash the same.

For Petitioners : Mr.Durai Gunasekaran

For Respondent : Mr.H.Manojin
(from Legal Service Authority)

O R D E R

This Criminal Original Petition has been filed to quash M.C.No.20 of 2014, pending on the file of the learned Judicial Magistrate No.I, Vellore.

2. The case of the prosecution is that the respondent herein, who is the complainant in M.C.No.20 of 2014 has preferred a complaint against the petitioners under Section 12 of the Domestic Violence Act, 2005, on 28/4/2014 and the same was forwarded to the learned Judicial Magistrate No.I, Vellore and was taken on file in M.C.No.20 of 2014.

3. Heard Mr.Durai Gunasekaran, learned counsel for the petitioners and Mr.H.Manojin, learned counsel for the respondent.



4. It is the contention of the learned counsel appearing for the petitioners that the impugned complaint is brimming with improbabilities and devised with an ulterior intention to thwart the petitioners and hence, the present complaint filed under the Domestic Violence Act is liable to be quashed.

5. The first petitioner is the husband of the defacto complainant and the second petitioner is the mother in law. On a careful perusal of the materials available on record, this Court is of the view that as the petition is filed under Sections 12, 18, 19 (1) (a) (b) (c), 20 (2), 21 and 22 of the Protection of Women from Domestic Violence Act, 2005, it is the duty of the learned Magistrate to find out whether any domestic violence committed by the husband or not and further, as no protection order has been passed, to attract penal provision. Therefore, invoking the jurisdiction of Section 482 of the Code of Criminal Procedure, at this stage does not arise.

6. In such a view of the matter, this Criminal Original Petition is dismissed. Taking note of the fact that only bald allegations are made against the mother-in-law, her presence before the trial Court is dispensed. Learned Magistrate shall take into consideration the allegation made against the second accused not only in paragraph 7 of M.C.No.30 of 2014, which is bald, without any substance and pass orders. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

mvs

To

1. The Judicial Magistrate No.I,
Vellore
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Durai Gunasekaran, Advocate, S.R.No.67382

Cr1. O.P. No.26261 of 2017

GSM(CO)
SU(05/01/2022)