



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.26818 of 2017 &
Crl.M.P.No.15417 of 2017

1. Ramu @ Raman
2. Selvi @ Raji

... Petitioner

Versus

Chitra

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the C.M.P.No.4331 of 2017 in M.C.No.14 of 2015 pending on the file of the learned Judicial Magistrate No.1, Mayiladuthurai and quash the proceedings as against the petitioners.

For Petitioners :Mr.S.Kathiravan

For Respondent :Mr.R.Shivakumar for
M/s K.M.Vijayan Associates

O R D E R

The present Criminal Original Petition is filed to call for the records pertaining to the C.M.P.No.4331 of 2017 in M.C.No.14 of 2015 pending on the file of the learned Judicial Magistrate No.1, Mayiladuthurai and quash the proceedings as against the petitioners.

2. The main crux of the case is that earlier, Maintenance Case No.14 of 2015 was filed by the wife against her husband and the petitioners, who are the relatives [brother and brother's wife of the husband of the defacto complainant] of the husband of the defacto complainant. The learned Judicial Magistrate No.1, Mayiladuthurai had partly allowed the said Maintenance Case by directing the petitioners as well as the husband of the defacto complainant not to interfere with the possession of the



respondent and granted injunction against the petitioners. Besides the same, directed the husband of the defacto complainant to set up a residence and pay monthly maintenance of Rs.10,000/- and Rs.7,000/- for expenses. Since the said order has not been complied with, the defacto complainant has filed petition in C.M.P.No.4331 of 2017 to comply with the order passed in Maintenance Case No.14 of 2015. Thereafter, notice has been issued.

3. Heard the learned counsel on either side and perused the documents placed on record.

4. It is to be noted that the entire order passed by the learned magistrate was directed only against the husband of the defacto complainant, only a blanket order has been issued against the petitioners, viz., 'not to create any problem', therefore, if the husband of the defacto complainant has failed to pay the monthly payment and arrears, as ordered by the learned Magistrate, the said learned Magistrate can very well proceed against the husband of the defacto complainant against the penal provisions under the Domestic Violence Act for breach of any protection /maintenance order.

5. Since major portion of the order passed by the learned Magistrate is only against the husband of the defacto complainant, issuing notices by the learned Magistrate against the present petitioners alone, is quashed. The learned Magistrate is at liberty to proceed against the husband of the defacto complainant.

6. With the above observation, the present Criminal Original Petition is partly allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

ssd

To

1.The Judicial Magistrate No.1,
Mayiladuthurai



2.-do-Thro' The Chief Judicial Magistrate,
Nagapattinam.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Kathiravan, Advocate SR.No.64316

+1cc to M/s.K.M.Vijayan Associates, Advocate SR.No.64733

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SV(CO)
CB(27/12/2021)