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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P. NO.1416 OF 2020

AND

CRL.M.P. NOS.857 & 858 OF 2020

1.R.Gopalakrishnan
2.G.Sudha

... Petitioners

Vs.

1. Teena Sherlie
2. Megna Vishnu (Minor)
3. Ethenroy Vishnu (Minor)
D/o.Vishnu,
8 years,
Minors Rep. by their natural Guardian/Mother
Teena Sherlie,
Door No.8, PopJohn Street,
K.K.Nagar, Erode District.

... Respondents

PRAYER:

Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in D.V.C.No.82 of 2019 on the file of the learned Judge, Additional Mahila Court, (In the cadre of Magistrate Level), Erode, and may be pleased to quash the same as against the petitioners for the reasons stated above.

For Petitioners : Mr.S.Raghunathan

For Respondents : Mr.S.Mahesh Kumar for
Mr.D.Raghu



ORDER

This Criminal Original Petition has been filed to call for the records in D.V.C.No.82 of 2019 on the file of the learned Additional Mahila Court, (In the cadre of Magistrate Level), Erode, and to quash the same as against the petitioners.

2. The respondents preferred a complaint under the Domestic Violence Act, 2005 in D.V.C.No.82 of 2019 in which, the petitioners are arrayed as 2nd and 3rd accused. They preferred this petition challenging the entire proceedings in D.V.C.No.82 of 2019.

3. This Court by an order dated 17.03.2020 quashed the proceedings as against the petitioners on condition that they shall ensure that A1 being husband of the 1st respondent herein, deposits a sum of Rs.5,000/- on or before 5th of every English Calendar month to the credit of DVC.No.82 of 2019 on the file of the Additional Mahila Court, (In the cadre of Magistrate Level), Erode, as ad-interim maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled.

4. Aggrieved by the same, the petitioners preferred Special Leave Petition before the Hon'ble Supreme Court of India, and by an order dated 24.01.2022, the Hon'ble Supreme Court set aside the part of the order passed by this Court viz., part of the order imposing condition on the A1 to pay maintenance of Rs.5,000/- and remanded the matter to this Court to decide the relief on its own merits and in accordance with law, after taking into account all aspects of the matter.

5. In such circumstances, the petition is listed today before this Court. The learned counsel for the petitioner would submit that there are totally three accused persons in the complaint lodged by the 1st respondent. In the said complaint, the petitioners are arrayed as 2nd and 3rd accused who are none other than the parents of the first accused. The complainant is the wife of the 1st accused. Now his whereabouts are not known and already he has abandoned the petitioners and the petitioners are in no way connected with the 1st accused. Further, it is submitted that the 1st accused has also got married with an other lady and is living separately.

6. Considering the above facts and circumstances, the proceedings in D.V.C.No.82 of 2019 on the file of the learned Additional Mahila Court, (In the cadre of Magistrate Level), Erode, is quashed as against the petitioners alone and the Trial Court is directed to proceed with the trial as against the 1st accused in accordance with law.



7. In fine, this Criminal Original Petition stands allowed.
Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ata/nti

To

1. The Additional Judge,
Mahila Court, (In the cadre of Magistrate Level),
Erode.
2. The Public Prosecutor,
Madras High Court,
Madras.

+1cc to Mr.S.Raghunathan, Advocate, S.R.No.35614
+1cc to Mr.D.Raghu, Advocate, S.R.No.35069

CRL.O.P. No.1416 of 2020

AJS (CO)
PM/01/07/2022