



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 28.03.2022
CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

CRL.O.P.No.25549 of 2016
Crl.M.P.No.12427 & 12428 of 2016

1.Shankar

2.Jeevitha

3.Anbalagan

4.Muniammal

5.Thavanam

...Petitioners

Vs.

S.Rajarangammal

...Respondent

Prayer :- Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to call for the records in the case filed by the respondent against the petitioners in D.V.No.1 of 2016 pending on the file of the learned Judicial Magistrate No.II, Thiruvannamalai and quash the same.

For Petitioners: M/s.S.Silambu Selvan

For Respondent : M/s.S.Suseela Devi

ORDER

This petition is filed to call for the records in D.V.No.1 of 2016 on the file of the learned Judicial Magistrate No.II, Civil Judge (Junior Division), Thiruvannamalai and quash the same.

2.Respondent gave a complaint against petitioners alleging that the marriage with first petitioner had taken place on 01.07.1993. At the time of her marriage, she was provided with 45 sovereign of gold jewels and other household articles. First petitioner was working as a teacher in a Government school and was earning Rs.50,000/- per month. Respondent got conceived in 2006, due to lack of medical support, the child born was dead. In 2004, first petitioner married second petitioner without her knowledge. On 19.03.2012, a male child named Karuneshraj was born to first petitioner and respondent. After marrying second petitioner, first petitioner started harassing the respondent. He took the jewels and the household articles of the respondent. All the petitioners had physically harassed the respondent, cheated her and sent out of her matrimonial home without even



permitting her to take her clothes and clothes of her son. When the marriage with the respondent is subsisting, the second marriage conducted by the first petitioner with the second petitioner is illegal. First petitioner is not providing any maintenance to the respondent and her son, despite several request made personally. Not only that, first petitioner had been threatening her that he would kill her and her son. Therefore, the complaint was given. On the basis of this complaint, domestic incidence report was filed. The case was taken on file in D.V.No.1 of 2016.

3.Learned counsel for the petitioners submitted that the marriage between the first petitioner and respondent had taken place on 01.07.1993. However, the complaint regarding the domestic violence had given only in 2016. Other petitioners have no connection with the life of the first petitioner and respondent, they are falsely implicated in this case. Therefore, he prayed for quashing the proceedings in D.V.No.1 of 2016.

4.In response, learned counsel for the respondent submitted that specific allegations made against all the petitioners. The allegations must be inquired into in the course of enquiry. Thus, he prayed for dismissal of this Criminal Original Petition.

5.Considered the rival submissions and perused the records.

6.As narrated above, there is no dispute that the marriage between the first petitioner and respondent had taken place on 01.07.1993. The complaint alleging domestic violence was given only on 01.02.2016. Even as per the complaint allegations that, the second marriage between first petitioner and second petitioner had taken place in 2004. Though, it is alleged in the complaint that all the petitioners had physically harmed the respondent, respondent's grievance is only against the first petitioner, her husband. The domestic incidence report shows that the first petitioner had mainly caused verbal and emotional abuse, economic abuse and dowry related harassment. There is also specific allegation that when the marriage with the respondent is subsisting, the first petitioner married second petitioner and procured four children and second petitioner also joined in harassing the respondent with the first petitioner. It appears from the complaint allegations and materials that there are sufficient materials available to proceed against petitioners 1 and 2. So far as, petitioners 3 to 5 are concerned, the allegations against them are only generalized allegations. It is submitted that petitioners 3 to 5 have separate family and they are not living with first petitioner and respondent. Therefore, this Court finds that there are no substantial materials available to proceed against petitioners 3 to 5.



7. In this view of the matter, the petition for quashing the proceedings in D.V.No.1 of 2016 against petitioners 3 to 5 is allowed and so far as petitioners 1 and 2 are concerned, this Court finds that materials available to proceed with the case to find out the truth or falsity of the allegations made against them.

8. In this view of the matter, Criminal Original Petition in Crl.O.P.No.25549 of 2016 against petitioners 1 and 2 is dismissed. Criminal Original Petition in Crl.O.P.No.25549 of 2016 against petitioners 3 to 5 is allowed. Accordingly, proceedings against petitioners 3 to 5 in D.V.No.1 of 2016 on the file of the learned Judicial Magistrate No.II, Thiruvannamalai is quashed. In fine, Criminal Original Petition in Crl.O.P.No.25549 of 2016 is partly allowed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.II,
Thiruvannamalai.

2.Do through the Chief Judicial Magistrate, Thiruvannamalai.

+1 cc to M/s.S.Suseela Devi, Advocate Sr.NO. 20838

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bp(CO)

A.SK(19/04/2022)