



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE OF RESERVING ORDER
06.06.2022

DATE OF PRONOUNCING ORDER
10.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRL.OP.NO.5956 OF 2016

AND

M.P.NO.3059 OF 2016

1.P.Rajendran
2.Palaniammal
3.R.Perumal
4.P.Chitra
5.P.Barathi
6.Subramanian
7.Rajammal

...Petitioners

Vs.

Mangaiyarkarasi

...Respondent

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to D.V.C.No.6 of 2015 on the file of the Judicial Magistrate No.I, Namakkal and quash the same.

For Petitioners : Ms.Shase
for Mr.M.Guruprasad

For Respondent : Mr.K.A.Mariappan

O R D E R

This Petition was filed by all the accused to quash the D.V.C.No.6 of 2015, pending on the file of the learned Judicial Magistrate No.I, Namakkal. The 1st Petitioner is the husband of the Respondent/Wife/Complainant, Petitioners 2 and 3 are the parents of the 1st Petitioner viz., parent-in-law of the Respondent, Petitioners 4 & 5 are the sisters of the 1st Petitioner, 6th Petitioner is the husband of the 4th Petitioner and the 7th Petitioner is the sister-in-law of the 2nd Petitioner.

2.Heard the learned counsel appearing on both sides and perused the records.

3.The Respondent herein has initiated proceedings under Domestic Violence Act 2005, against her husband, in-laws,

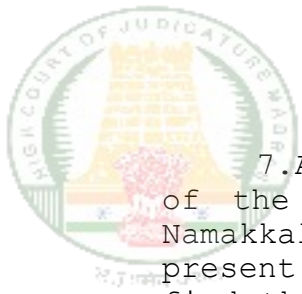


married sisters, their husband and aunt of the 1st Petitioner in D.V.A.No.6 of 2015, pending on the file of the Judicial Magistrate No.1, Namakkal. The Respondent was married to the 1st Petitioner on 30.10.1998 at the instance of both the family members. Out of the wedlock, they are having a son viz., Diwakar. It is alleged that the Petitioners had committed violence upon the Respondent. The Respondent is working as a Government Teacher from 2001 onwards. The Respondent deserted the 1st Petitioner and the Petitioner filed HMOP.No.131 of 2003 before the Sub Court, Namakkal seeking restitution. The said proceedings got culminated before Lok Adalat on 02.12.2005. Thereafter the 1st Petitioner and the Respondent started living together but the same did not last longer, the Respondent had made unsubstantial allegation against the 1st Petitioner and left the matrimonial home.

4.The 1st Petitioner had initiated divorce proceedings against the Respondent in HMOP.No.107 of 2008 on the file of the Sub Court, Namakkal and originally it was decreed on 09.11.2009. After one year and 10 months the Respondent filed set aside application and the same was allowed. The Respondent, in the year 2014 had filed FCOP.No.73 of 2014 before Family Court, Salem seeking restitution. The 1st Petitioner filed transfer application before this Court in Tr.C.M.P.No.326 of 2014. The said application was allowed and FCOP.No.73 of 2014 was transferred and renumbered as HMOP.No.242 of 2014 and both the HMOP's are tried together before Sub Court, Namakkal. The 1st Petitioner and the Respondent are living separately for the past 8 years. There was pendency of matrimonial proceedings. There was no allegation against any of the relatives in all the previous proceedings, now in order to harass the husband and his family members, the present proceedings under domestic violence are initiated. The order of taking cognizance is challenged in this Petition.

5.Learned counsel for the Petitioner would contend that the 1st Petitioner and the Respondent/wife are living separately for more than eight years. No allegation has been made against any of the relatives in the previous proceedings viz., , OP and Criminal proceedings, which were pending against them and hence it is only a harassment, by roping all the family members including the sisters, their respective husbands and aunt in the proceedings. Reckless and casual allegations are made against the Petitioners. The Respondent had not approached the Court with clean hands. The Respondent had purposely implicated all the relatives of the husband without any materials.

6.Learned counsel for the Respondent would contend that the wife/Respondent subjected to domestic violence.



7. After perusing the records and also the connected records of the Family Court proceedings that are pending before the Namakkal Sub Court and the allegations made therein and the present allegations in D.V.C.No.6 of 2015, dated 18.03.2015, I find that HMOP.131 of 2003 was filed by the husband as early as on 02.12.2003, HMOP.No.107 of 2008 was also filed by the husband and HMOP.No.73 of 2014 was filed in the year 2014 by the wife, which clearly indicates that no positive allegations have been made against the Petitioners 4 to 7 herein. They are sisters, sister's husband and aunt of the 1st Petitioner/husband. The Respondent/wife states that she is working as Teacher in Government School and she was made to deposit Rs.4,00,000/- and the jewels by the in-laws. Taking entirety of the circumstances of the facts as referred supra, I find that there is no substance at all as against Petitioners 4, 5, 6 & 7. Accordingly, the Crl.OP.No.5956 of 2016 is partly allowed only to the limited extent as against those Petitioners viz., Petitioners 4 to 7 alone. Taking into consideration the age of Petitioners 2 & 3, who are Parent-in-law of the Respondent, their personal appearance before the Court is dispensed with. However as and when required by the Court, they shall appear before the Court for conducting the trial.

8. With these observations, Crl.OP.No.5956 of 2016 is partly allowed to the limited extent as against Petitioners 4 to 7 alone and D.V.C.No.6 of 2015 stands quashed only in respect of those Petitioners viz., Petitioners 4 to 7. Crl.OP.No.5956 of 2016 stands dismissed in respect of Petitioners 1 to 3, subject to the observations made above. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

sai

To

The learned Judicial Magistrate No.I,
Namakkal.

+1cc to Mr.M.Guru Prasad, Advocate, Sr.No.34636

Crl.OP.No.5956 of 2016
and
M.P.No.3059 of 2016

AJB (CO)
RVM(23/06/2022)