



Crl.O.P(MD)No.11148 of 2017 and 11988 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2023

CORAM:

THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN

Crl.OP(MD)Nos.11148 of 2017 and 11988 of 2022

and

Crl.M.P(MD)Nos.7639 of 2017, 7573 of 2022 and 7574 of 2022

Crl.OP(MD)No.11148 of 2017:

Lakshmi

.. Petitioner/Respondent

Vs.

M.Kalaiselvi

.. Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to withdraw the case in D.V.O.P.No.8 of 2017 on the file of the learned Judicial Magistrate, Vedasanthur, Dindigul District and transfer the same to any other competent Court in Karur District.

For Petitioner : Mr.V.Balaji

For Respondent : No appearance



Crl.O.P(MD)No.11148 of 2017 and 11988 of 2022

WEB COPY

Crl.OP(MD)No.11988 of 2022:

1.Munusamy

2.Lakshmi

.. Petitioners/Respondents

Vs.

M.Kalaiselvi

.. Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the Domestic Violence Proceedings in D.V.O.P.No.8 of 2017 on the file of the learned Judicial Magistrate, Vedasanthur, Dindigul District and quash the same.

For Petitioners : Mr.V.Balaji

For Respondent : No appearance

COMMON ORDER

Since these petitions are arising out of the same case with different prayer, pending on the file of the learned Judicial Magistrate, Vedasanthur, Dindigul District, both cases are taken up for hearing together and disposed of by way of this common order.



Crl.O.P(MD)No.11148 of 2017 and 11988 of 2022

WEB COPY

2. Crl.O.P(MD)No.11148 of 2017 was filed by the mother-in-law of the respondent herein to transfer the case in D.V.O.P.No.8 of 2017 from the file of the Judicial Magistrate Court, Vedasandur, Dindigul District to Karur. Crl.O.P(MD)No.11988 of 2022 is filed by the husband and mother-in-law of the respondent herein to quash the proceedings of the said DVOP. In both the cases, after withdrawal of the appearance of the learned counsel for the respondent, this Court directed the petitioners to take private notice and private notice was served and proof filed. In spite of her name printed in the cause list, nobody is appeared on behalf of the respondent and hence, this Court, upon perusal of the materials and hearing the arguments of the learned counsel for the petitioners inclined to dispose of these petitions.

3. The learned counsel for the petitioners submitted that the petitioner has life threat at the hands of the respondent and her relatives and the same was witnessed from the averment in D.V.O.P.No.60 of 2017 in which the petitioner/mother-in-law was assaulted by the respondent and hence there was every possibility of life threat to the petitioners.



CrI.O.P(MD)No.11148 of 2017 and 11988 of 2022

WEB COPY

4. This Court not satisfied with the averment made in the petition to transfer the case and there was no material to substantiate the allegation that the respondent caused the apprehension to the petitioner at the time of appearance before the Veda sandur Court. Mere averment that there is a life threat to the petitioner at Veda sandur is not sufficient to transfer the case to Karur.

5. In the said circumstances, this Court do not find any merit in the transfer petition and hence, CrI.O.P(MD)No.11148 of 2017 is dismissed. Consequently, connected miscellaneous petition is closed.

CrI.O.P(MD)No.11988 of 2022:

6. Insofar as the quash petition in CrI.O.P(MD)No.11988 of 2022 is concerned, as per the Hon'ble Full Bench of this Court in 2022(4)MLJ(CrI)561 this petition is not maintainable. Accordingly, this petition is dismissed. The grounds raised in this quash petition is permitted to raise before the trial Court in the DVOP proceedings. However, considering the age of the second petitioner, this Court is



Crl.O.P(MD)No.11148 of 2017 and 11988 of 2022

WEB COPY

inclined to dispense with the appearance of the second petitioner/A3 alone. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event their presence is insisted by the trial judge for the purpose of identification. If the petitioners adopt any dilatorial tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, *in State of Uttar Pradesh Vs. Shambunath Singh*, reported in *2001 (4) SCC 667*.

7. The learned Judicial Magistrate, Vedasanthur, Dindigul District, is directed to dispose the D.V.O.P.No.8 of 2017 within a period of two months from the date of receipt of a copy of this order. The petitioners are directed to cooperate with the trial proceedings without making any hindrance for the speedy disposal.

8. With the above direction, Crl.O.P(MD)No.11988 of 2022 is disposed of. Consequently, connected miscellaneous petitions are closed.

08.03.2023

PJL

Note: Issue order copy on 19.04.2023.



WEB COPY



Crl.O.P(MD)No.11148 of 2017 and 11988 of 2022

K.K.RAMAKRISHNAN, J.

PJL

To
The Judicial Magistrate,
Vedasanthur,
Dindigul District.

Crl.O.P(MD)Nos.11148 of 2017
and 11988 of 2022

08.03.2023