



CrI.O.P.(MD)No.15048 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CrI.O.P.(MD) No.15048 of 2022 and
CrI.M.P.(MD).No.9840 of 2022

1.S.Sajeevan

2.Ushakumari

3.Sindhukumar

4. S.Sowmya

... Petitioners/respondents

Vs.

R.M.Ayswariya

...Respondent/Petitioner

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the petition filed under the Protection of Women from Domestic Violence Act, 2005 in DVOP No.13 of 2021 on the file of the learned Judicial Magistrate No.II, Padmanabhapuram and quash the same as illegal.

For petitioners

: Mr.Thayumanaswamy H

For Respondent

: Mr.P.T.Ramesh Raja



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ORDER

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This petition has been filed seeking to quash the proceedings in DVOP No.13 of 2021 on the file of the learned Judicial Magistrate No.II, Padmanabhapuram.

2.The case of the petitioners is that 1st petitioner is the husband of the complainant. The petitioners 2 to 4 are the in-laws of the complainant. The marriage between the first petitioner and the complainant was solemnized on 09.12.2012 and they have a male child out of the wedlock. After delivery, the respondent went to her parental home and not allowed to the first petitioner to see his child. Thereafter , the respondent decided to terminate the marriage and have a written agreement on 27.08.2014. As per the agreement, all the jewels and house hold articles belonging to the respondent were returned. They have seperated mutually on 14.04.2014. But suppressing all those facts, the respondent filed a case under the Domestic Violence Act in DVC No.13 of 2021 stating that the petitioners herein harassed the respondent demanding more dowry, for quashing which, the petitioners are before this court.



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3. The learned counsel for the petitioners would submit that there are no materials whatsoever available with the respondent to show that the petitioners have harassed the complainant. He would submit that the petitioners have nothing to do with the alleged offence and hence, prays for interference.

4. The learned counsel for the respondent/complainant, on the other hand, would submit that there are materials available to proceed with the case as against the petitioners herein, since at the instigation of the petitioners 2 to 4, the husband of the complainant/1st petitioner demanded additional dowry and harassed her and hence, at the threshold, the domestic violence proceedings cannot be quashed and the charges against the petitioners have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5. It is seen that the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioners, if they are subjected to due trial as sufficient opportunity would be given to them to put forth their defence. The petitioners cannot be let by quashing the charges framed against them as that would completely undermine the alleged act, which is the subject matter of



criminal trial pending against him. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***.

6. For the reasons aforesaid, this Court finds no ground or scope to quash DVC.No.13 of 2021, pending on the file of the learned Judicial Magistrate No.II, Padmanabhapuram. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petition is closed.

7. The learned counsel appearing for the petitioners submitted that this Court may consider dispensing with the personal appearance of the petitioners before the Court below. Taking into consideration the request as made by the learned counsel for the petitioners, the appearance of the petitioners before the trial court is dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners is necessary, the trial court, at its wisdom, shall direct their appearance on those days.



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Index : Yes/No

Internet : Yes/No

Indu

To

- 1.The learned Judicial Magistrate No.II,
Padmanabhapuram.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

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