



Crl.O.P.(MD)No.14991 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 07.03.2024

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

Crl.O.P.(MD) No.14991 of 2022 and

Crl.M.P.(MD).Nos.9772 of 2022

1.Bowshiya

2.Ajmeera Banu

... Petitioners/Accused

Vs.

Bharakkathnisha

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in DV.No.1 of 2020, on the file of the Judicial Magistrate, Sivagiri and quash the proceedings as against the petitioners herein.

For petitioners : Mr.R.Nirshkumar

For Respondent : No appearance

ORDER

This petition has been filed seeking to quash the proceedings in DV No.1 of 2020 initiated under the provisions of Domestic Violence Act, on the file of the learned Judicial Magistrate, Sivagiri.

2. The case of the prosecution is that the petitioners are the sister-in-laws of the respondent. The marriage between the respondent and the



brother of the petitioners was solemnized on 18.01.2017 and subsequently, the respondent pronounced Talaq on 26.11.2019. While so, the present proceedings were initiated under the Domestic Violence Act, as if the petitioners harassed the respondent, for quashing which, the petitioners are before this court.

3. The learned counsel for the petitioners would submit that the petitioners have nothing to do with the alleged offence and they have been falsely implicated in this case. To substantiate this contention, the learned counsel would submit that the marriage between the brother of the petitioners and the respondent came to an end as early as on 26.11.2019 on the pronouncement of Talaq by the respondent herein, while so, the proceedings initiated after the pronouncement of Talaq, ie., after the dissolution of marriage, is per se illegal. He would further submit that when there is no domestic relationship between the petitioner's brother, petitioners and the respondent on the date of filing of the complaint, the cognizance taken has no legs to stand and hence, prays for interference.

4. 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. Further, all the points raised herein shall be agitated before the before the trial court. 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)***.

5. For the reasons aforesaid, this Court finds no ground or scope to quash DV.No.1 of 2020, pending on the file of the learned Judicial Magistrate, Sivagiri. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petition is closed.

6. 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.



Crl.O.P.(MD)No.14991 of 2022

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.

07.03.2024

NCC : Yes/No
Index : Yes/No

RR

To

1. The Judicial Magistrate, Sivagiri.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Crl.O.P.(MD)No.14991 of 2022

M.DHANDAPANI. J.

RR

Crl.O.P.(MD)No.14991 of 2022

07.03.2024