
(2009) 08 MAD CK 0369

In the Madras High Court

Case No : Criminal O.P. (MD) No. 12092 of 2008 and M.P. (MD) No's. 1 and 1 of 2008

S. Meenavathi

APPELLANT

Vs

Senthamarai Selvi, Ramasivam and Harinarayani

RESPONDENT

Date of Decision : 24-08-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Penal Code, 1860 (IPC) — Section 294, 406, 498A

Protection of Women From Domestic Violence Act, 2005 — Section 12, 17, 19, 19(1), 2

Citation : (2009) 08 MAD CK 0369

Hon'ble Judges : G.M. Akbar Ali, J

Bench : Single Bench

Advocate : V.R. Shanmuganathan, for the Appellant; K. Swamidurai, for the Respondent

Final Decision : Dismissed

Judgement

G.M. Akbar Ali, J.—This petition is filed u/s 482 of Cr.P.C., to call for the records relating to the impugned complaint in M.C. No. 36 of 2008, on the file of the learned Judicial Magistrate, Veda sandur, and to quash the same.

2.The brief facts of the case is as follows:

The petitioner's son one Suresh married to the first respondent on 30.06.1999. Out of the said wedlock, two children were born and the matrimonial life was not happy. Because of difference of opinion between them, the first respondent, who is the wife, harassed in all possible ways including giving false complaint and the petitioner's son issued a legal notice, seeking divorce and the first respondent filed a suit for partition claiming a share in the property owned by the petitioner's son. The first respondent has also given a complaint and a case was registered in Crime No. 7 of 2008 for the alleged offence under Sections 498A, 406 and 294(b) of I.P.C. The first respondent has filed M.C. No. 36 of 2008 and CrI.M.P. No. 4742 of 2008, on the file of the learned Judicial Magistrate,

Vedasandur, under Sections 12 and 23 of the Protection of Women from Domestic Violence Act, 2005 and the petitioner has granted shared household rights without any basis and also claimed monetary relief under Sections 17 & 19 of the Act and the impugned complaint is not maintainable against this petitioner. It is only a harassment, which has to be quashed, otherwise, irreparable loss will be caused to the petitioner.

3. The learned Counsel for the petitioner would submit that the petitioner is the mother-in-law, who has nothing to do with the marital life of the first respondent and her son and she has been harassed by the first respondent and the petitioner has initiated the proceedings u/s 12 of the Protection of Women from Domestic Violence Act. The learned Counsel for the petitioner pointed out that in Crl.M.P. No. 4742 of 2008, the learned Magistrate has passed an order, which is against law.

4. In support of his contention, the learned Counsel for the petitioner relied on the judgment of this Court in Uma Narayanan v. Priya Krishna Prasad reported in 2008 (3) MLJ (Crl) 756, wherein this Court has held that the term "respondent" in the Act will mean only an adult male person and not a woman and an application u/s 12 of the Protection of Women from Domestic Violence Act, 2005, is not maintainable as against women members. It is further held that in the guise of passing an order u/s 19(1)(b) of the Protection of Women from Domestic Violence Act, 2005, such women members of the family cannot be directed to be removed from the shared household.

5. On the other hand, the learned Counsel for the respondent submitted that the Protection of Women from Domestic Violence Act, 2005, is a beneficial legislation and women driven away from matrimonial home and the petitioner is the mother-in-law, being the root cause, cannot escape from the provision of the Act, and therefore, the proceedings are maintainable and cannot be quashed. The learned Counsel for the respondent relied on the unreported judgment of this Court in Crl.O.P(MD) No. 11066 of 2008, wherein this Court has held that the respondents includes a relative of the husband.

6. Heard the learned Counsel for the petitioner and the learned Counsel for the respondent.

7. Admittedly, the petitioner is the mother-in-law and the first respondent has filed an application u/s 12 of the Protection of Women from Domestic Violence Act, 2005, before the learned Magistrate seeking various reliefs and one such relief has been granted by the learned Magistrate. It is again and again held by this Court and also by the Hon'ble Apex Court that the Protection of Women from Domestic Violence Act, 2005, is a welfare legislation to protect the rights of women.

8. In the Sub-section (i) of the 4th paragraph of the Statement of Objects and Reasons, it has been categorically mentioned as follows:

4. The Bill, inter alia, seeks to provide for the following:

(i) It covers those women who are or have been in a relationship with the abuser where both parties have lived together in a shared household and are related by consanguinity, marriage or through a relationship in the nature of marriage or adoption. In addition, relationships with family members living together as a joint family are also included. Even those women who are sisters, widows, mothers, single women, or living with the abuser are entitled to legal protection under the proposed legislation. However, whereas the Bill enables the wife or the female living in a relationship in the nature of marriage to file a complaint under the proposed enactment against any relative of the husband or the male partner, it does not enable any female relative of the husband or the male partner to file a complaint against the wife or the female partner.

9. Section 2(q) of the Act, runs as follows:

2(q) "respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner;

10. This Court, in paragraph No. 14 of Crl.O.P. No. 11066 of 2008, has held as follows:

14. The objects and reasons would categorically show that the aggrieved wife or female partner can file a complaint against any relative of the husband or male partner. Thus it helps us to understand the word "a relative" mentioned in the proviso to section 2(q), could be construed as any relative. Will the words any relative include both female and male relatives? is an important question to be decided at this juncture. According to "Concise Oxford English Dictionary ? Eleventh Edition", "any" means, to refer to one or some of a thing or number of things, and it does not matter how much or how many. As regards, the meaning of "any", it does not restrict to a singular and a particular category, it applies to all categories or classes of persons. In this background, when we approach the object and reasons, it has been categorically mentioned that the bill was prepared to enable the wife or the female partner living in a relationship in the nature of marriage to file a complaint under the proposed enactment against any relative of the husband or the male partner, even though, it does not enable any female relative of the husband or of the male partner to file a complaint against the wife or the female partner. Therefore, the Act has been enacted to protect the wife or the female partner, who is living with her husband or a male partner in a relationship in the nature of marriage from the harassment or violence emanated from any of the relative of her husband or male partner living in a relationship in the nature of marriage, including the adult female persons of the family. The benefits and protection given under this Act is not available to other

female members of the family. Therefore, the meaning given in the proviso of Section 2(q) would be against any relative of the husband or male partner which includes, the petitioners 1&2 being the adult female persons as per the allegations made by the first respondent.

11. The learned Counsel for the petitioner relied on the judgment of the Hon"ble Supreme Court in S.R. Batra and Another Vs. Smt. Taruna Batra, , the Supreme Court has held that "the house belonged to the mother-in-law is not a "shared household" within the meaning of Section 2(s) of the Protection of Women from Domestic Violence Act, 2005. However, this petition is filed to quash the entire proceedings in M.C. No. 36/2008. As far as the petitioner is concerned, as discussed earlier, there is no bar to include a woman as respondent under the proviso to Section 2(q) of the Act. As stated earlier, the act is a social welfare legislation and the proceedings has to be construed as civil in nature. As far as the reliefs are concerned, only if the reliefs ordered are not obeyed, the penal provision comes in to make the proceedings as criminal.

12. In the light of the foregoing narration of factual premises, I have no reason to interfere with the proceedings and hence, this petition is dismissed. Consequently, connected miscellaneous petitions are also dismissed.