

learned Senior counsel submits that a person can be included as a respondent in an application of this kind only in the event of the aggrieved person establishing the domestic relationship with such person sought to be taken as respondent as a family member living together in the joint family and contended that the petitioner is not a person coming under the purview of "respondent" and he is not in possession and control over the sridhana property; therefore it is a fit case to quash proceedings against him.

4. Per contra, learned counsel for the respondent submits that specific allegations have been made in Para No. 6 of the application to the effect that the petitioner was always acting as if he was also a family member in the household and playing a dominant role by taking important decisions, but curiously respondents 1 to 4 are under the clutches of the petitioner for unknown reasons. It is also alleged that the petitioner even had the audacity to abuse the husband of the respondent herein in front of his parents.

5. Heard the submissions made on either side and perused the materials available on record.

6. The words "respondent" and "domestic relationship" have been defined in 2(f) (q) of the Protection of Women from Domestic Violence Act, 2005.

2(f): ""Domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family"

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."

7. Having regard to the operation of the Act as against the person who is sought to be taken as "respondent" in the proceedings initiated thereunder, it must be pointed out that unless the aggrieved person, namely, respondent herein, substantiates that the person concerned has got domestic relationship or that he is a family member, such person cannot be mechanically impleaded as one of the respondents in the application. If the respondent has any grievance against the petitioner, she is always at liberty to initiate proceedings against him before the appropriate forum for any offence committed by him against her, if she is so advised.

8. Considering the facts and circumstance, I do not find any justification on the part of the trial court in including the petitioner as one of the respondents in the application; therefore, the proceeding pending in CMP No. 8207 of 2008 on the file of the learned Judicial Magistrate No. I, Coimbatore is directed to be quashed in so

far as the petitioner / 5th respondent is concerned.

9. Accordingly, the Criminal Original Petition is ordered and consequently, miscellaneous petition is closed.

Ar

To

1. Judicial Magistrate No. I,
Coimbatore