

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22.04.2015
DELIVERED ON : 27.04.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.No.2299 of 2015
and M.P.Nos.1 and 2 of 2015

1.S.Rajendran
2.Sushila
3.Shanthi
4.Karthikeyan
5.Sushmitha
6.Shantakumar
7.Thavamani

nnn ... Petitioners/A2 to A8

vs.

Shanti @ Shanthakumari ... Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to the DVOP No.2 of 2013 on the file of Judicial Magistrate No.I, Udumalpet and quash the same as illegal.

For Petitioners : Mr.S.Ilango
For Respondent : Mr.S.Selvarajan

O R D E R

This petition has been filed to call for the records pertaining to DVOP No.2 of 2013 on the file of Judicial Magistrate No.I, Udumalpet and quash the same as illegal.

2. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent.

3. Venkatasubramani married Shanthi [respondent herein] on 16.06.1997 and their marriage failed. Venkatasubramani filed HMOP No.7 of 2007 for divorce and Shanthi filed HMOP No.6 of 2006 for restitution of conjugal rights. The trial Court dismissed the Divorce Petition on 23.11.2007 and allowed the restitution of conjugal rights petition, aggrieved by which Venkatasubramani preferred CMA Nos.45 and 46 of 2007 before the District Court, Salem, and the same were allowed by the appellate Court, thereby granting divorce and dismissing the application for restitution of conjugal rights filed by Shanthi. Thereafter, Venkatasubramani married Sushmitha [5th petitioner herein].

4. Shanthi approached this Court in CMSA Nos.38 and 39 of 2008, challenging the appellate Court's order and this Court, by order dated 22.04.2013, allowed both the appeals, thereby restoring the judgment and decree passed by the trial Court dismissing the Divorce Petition of Venkatasubramani and allowing the restitution of conjugal rights application of Shanthi.

5. Not content with this, Shanthi also filed a police complaint against Venkatasubramani and his family members, pursuant to which a case was registered and after investigation, a Final Report has been filed in C.C No.555 of 2014 against Venkatasubramani, his parents all relatives for offences under Sections 498-A, 494 r/w 120-B IPC before the Mahila Court, Madurai and the same is pending. Thus it is apparent that, Venkatasubramani and Shanthi have been spending substantial part of their precious life in litigating from 2006.

6. Now shanthi has launched proceedings against Venkatasubramani, his parents and relatives in DVOP No.2 of 2013, which is under challenge before this Court. In this proceedings, Venkatasubramani is not a petitioner. His parents, his sister, his wife Sushmitha, and Sushmitha's parents Shanthakumar and Thavamani are the petitioners. It is also seen that Venkatasubramani is paying Rs.2,5000/- per month as maintenance to Shanthi, pursuant to the order obtained by her under Section 125 Cr.P.C.

7. The learned counsel appearing for Shanthi submitted that there are enough materials against the petitioners, for proceeding against them under the Protection of Women from Domestic Violence Act, 2005 and therefore, the proceedings should not be quashed.

8. This Court carefully perused the petition filed by Shanthi under the Act and found that, the entire allegations against these petitioners are contrived. Sushmitha accidentally came into the life of Venkatasubramani, after the appellate Court had granted the decree of divorce in his favour and strangely, she has been included as a party respondent in the Domestic Violence proceedings. That apart, her parents, Shanthakumar and Thavamani have also been arrayed as respondents in the Domestic Violence proceedings. On a conspectus of the facts obtaining in this case it is clear that, both parties have been living separately since 2006 and they have been litigating relentlessly.

9. In the considered opinion of this Court, the proceedings against these petitioners is clearly an abuse of process of law and these petitioners have been unnecessarily roped into the impugned proceedings.

Udumalpet are quashed.
petitions are closed.

Consequently, connected miscellaneous

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gms

To

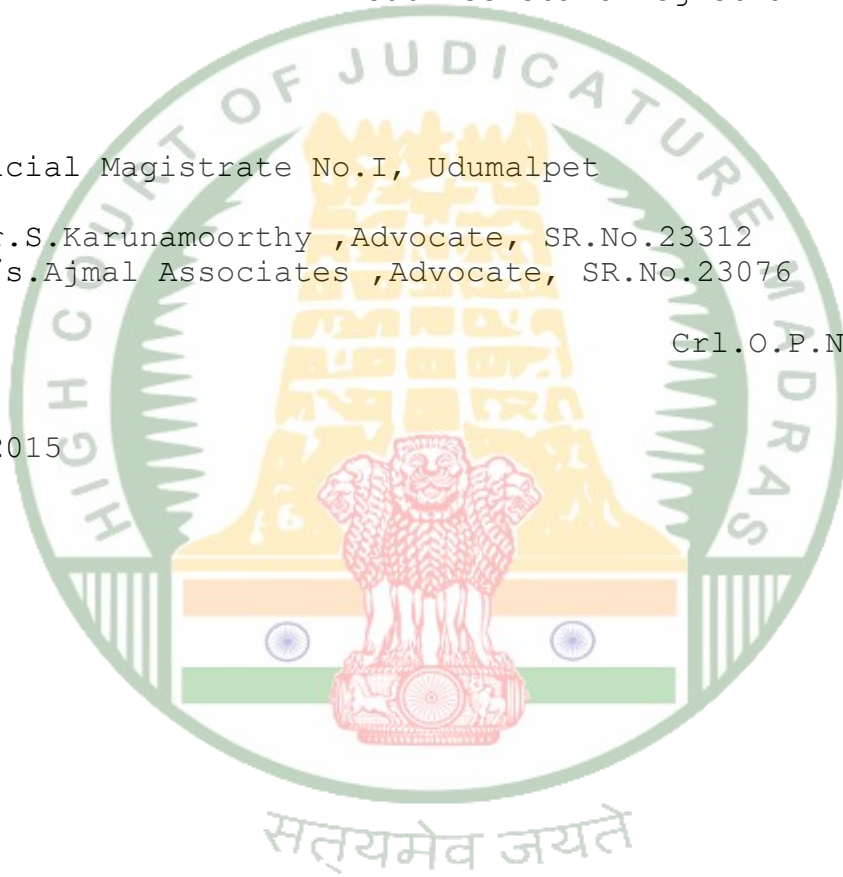
1.The Judicial Magistrate No.I, Udumalpet

1 cc to Mr.S.Karunamoorthy ,Advocate, SR.No.23312

1 cc to M/s.Ajmal Associates ,Advocate, SR.No.23076

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