

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2018

CORAM

THE HONOURABLE MR.JUSTICE P. RAJAMANICKAM

CRL.O.P.No.6272 of 2013

and

M.P.No.1 of 2013

A.M.Sharmila

...Petitioner

Vs

S.Kousalya

...Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in D.V.A.No.22 of 2012 on the file of the Judicial Magistrate -7, Coimbatore and to quash the same as against the petitioner.

For Petitioner : Mr. V.Vijay Kumar

for Respondents : Mr. S.S.Swaminathan

O R D E R

This petition has been filed by the seventh respondent in D.V.A.No.22 of 2012 on the file of the Judicial Magistrate No.VII, Coimbatore and to quash the proceedings as against her in the above Domestic Violence Act.

2. The learned counsel for the petitioner has submitted that the petitioner herein is totally a stranger to the respondent herein. He further submitted that as per the protection of Women from Domestic Violence Act, 2005, the respondent should be a person living in domestic relationship with the aggrieved person, whereas, in this case, admittedly, the petitioner herein is not at all living with the respondent herein in domestic relationship and therefore, he prayed for quashing the proceedings against the petitioner herein in D.V.A.No.22 of 2012 on the file of the Judicial Magistrate No.VII, Coimbatore.

3. The learned counsel for the respondent has submitted that the petitioner herein is living in adultery with the respondent's husband and hence, she is also liable to be answered for the application filed under the Domestic Violence Act and hence he request to dismiss this petition.

4. It is seen from the records that based on the domestic

incident report filed by the Social Welfare Officer, the learned Judicial Magistrate No.VII, Coimbatore has taken the case on file in D.V.A.No.22 of 2012. In the said report, the petitioner herein has been mentioned as she is living with the respondent's husband; whereas the address given for her is No.31/36, A-5, Siva Sakthi Colony, SIDCO Post, Coimbatore-21, but the address given to the respondent herein is No.227, C/D, Pollachi Main Road, Eechanari, Coimbatore and her present address has been mentioned as No.16/11, Pada Salai Veethi, Eechanari, Coimbatore-21. So, it is clear that the petitioner is not living in a shared household with the respondent herein. One of the essential conditions required for filing application under the Act is that the applicant/aggrieved person should have lived or living in a domestic relationship with the respondent. As per Section 2(f) of the Act, "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, "

5. In this case, as already pointed out that in the domestic violence incident report, it is clearly stated that the aggrieved person is residing in Door No.16/11, Pada Salai Veethi, Eechanari, Coimbatore-21, whereas the address given to the petitioner herein is 31/36, A-5, Siva Sakthi Colony, SIDCO Post, Coimbatore-21. So, it is clear that the petitioner herein is not all living with the aggrieved person in the shared household. Therefore, the proceedings against the petitioner in D.V.A.No.22 of 2012 on the file of the Judicial Magistrate -7, Coimbatore has to be quashed.

6. In the result, this Criminal Original Petition is allowed and the proceedings in D.V.A.No.22 of 2012 on the file of the Judicial Magistrate - VII, Coimbatore is quashed so far as the petitioner is concerned. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate -7,
Coimbatore

2. The Public Prosecutor,
High Court, Madras.

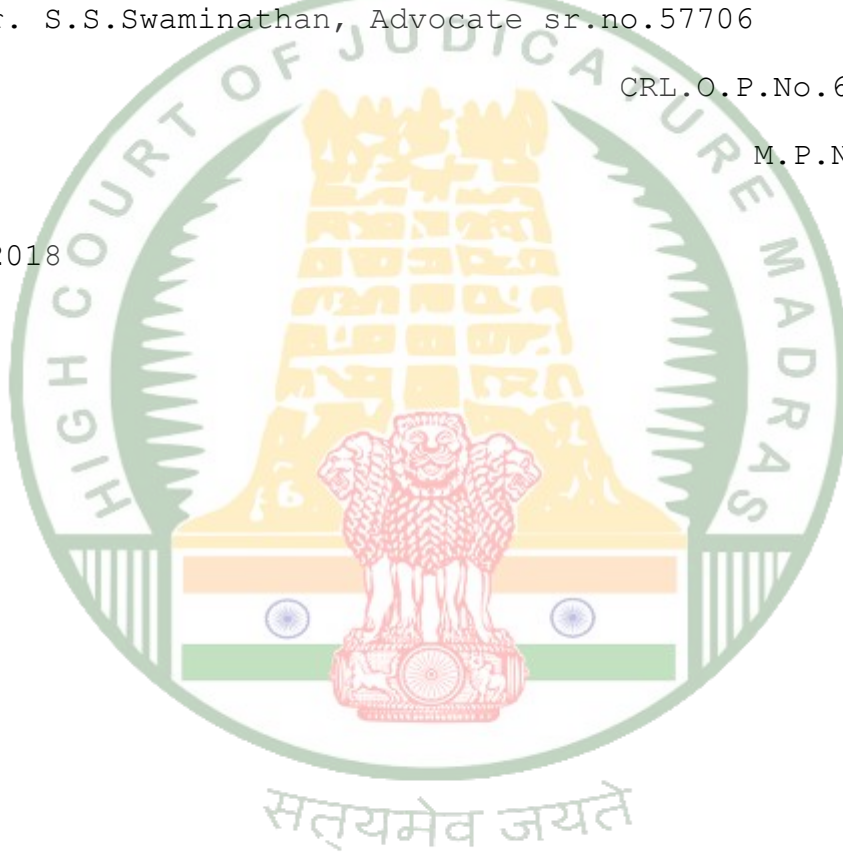
3.The Section Officer,
Criminal Section, High Court, Madras.

+lcc to Mr.V.Vijaya Kumar, Advocate sr.no.57548

+lcc to Mr. S.S.Swaminathan, Advocate sr.no.57706

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