

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2018

CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.No.30323 of 2013

1.Prabu Shankar
2.Vanaja Shankar
3.Girija Shankar
4.Divya Sivakumar
5.sS.K.Sivakumar

... Petitioners/Respondents

Vs.

S.Manju

... Respondent/Petitioner

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to Call for records comprised in the proceedings in D.V. No.8 of 2013 on the file of the Judicial Magistrate at Tambaram and quash the same in so far as the petitioners are concerned.

For Petitioners : Mr.G.Devi
For Respondent : No appearance.

O R D E R

This petition has been filed by the respondents in D.V.No.8 of 2013 on the file of the Judicial Magistrate, Tambaram to quash the proceedings against them in the above D.V.No.8 of 2013.

2. The first petitioner is the husband. The petitioners 2 & 3 are the father-in-law and mother-in-law, the petitioner No.4 is the sister-in-law of the respondent herein. The 5th petitioner is the husband of the 4th petitioner herein. Based on the complaint made by the respondent herein dated 08.04.2013, the District Social Welfare Officer, Kancheepuram, has filed a report and based on the same, the learned Judicial Magistrate, Tambaram has taken the case on file and issued notice to the petitioners herein. In the said report, the District Welfare Officer, Kancheepuram, has stated that the petitioners herein have committed domestic violence and hence the respondent is entitled to get protection order, the resident order, monetary relief, the compensation and also interim orders.

3. The learned counsel for the petitioners has submitted that the respondent herein has filed a petition under Section 13(1)(ia) of the Hindu Marriage Act 1955, against the first petitioner herein seeking divorce and in the said petition, nowhere she has stated that the petitioners herein have committed any domestic violence. She further submitted that in

the complaint which has been sent by the respondent dated 08.04.2013 to the District Social Welfare Officer, Kancheepuram, the respondent herein has categorically stated that after two days from the date of marriage, the respondent and her husband namely, the first petitioner herein were residing in a separate house and as such, the provisions of the protection of women from Domestic Violence Act, 2005 would not attract and therefore, she prayed to quash the proceedings against the petitioners.

4.The learned Counsel for the respondent has submitted that she has handed over the bundle to the respondent. Hence the matter has been listed after printing the name of the respondent in the cause list. But the respondent has not appeared either in person or through the counsel. Hence, after hearing the learned Counsel for the petitioners and perusing the records order is being passed.

5.It is seen from the typed set of papers filed along with the petition that the respondent herein has sent a complaint dated 08.04.2013 to the District Social Welfare Officer, Kancheepuram, in which she has stated that since 12.02.2006, she has started to live in a rented house at No.S-4, Sathya's Nestle, B-block, Rani Residency, Velachery Main Road, Sembakkam, East Tambaram, along with her husband. In such a case, it cannot be said that the petitioner Nos.2 to 5 have lived or living with the respondent herein with domestic relationship in a shared household. For entertaining an application under the Protection of Women from Domestic Violence Act, 2005 the condition precedent is that the respondent should have resided or residing with the aggrieved person with Domestic relationship in a shared house hold. In this case, admittedly the respondent lived with the husband/first petitioner herein from 12.02.2006 at No.S-4, Sathya's Nestle, B-block, Rani Residency, Velachery Main Road, Sembakkam, East Tambaram. In such a case, the petition against the other petitioners is not maintainable.

6.In the result, this petition is allowed in respect of the petitioners 2 to 5. Consequently the proceedings against the petitioners 2 to 5 herein in D.V.No.8 of 2013 on the file of the Judicial Magistrate are quashed. So far as the first petitioner is concerned, this petition is dismissed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ggi

To

1.The Judicial Magistrate at Tambaram

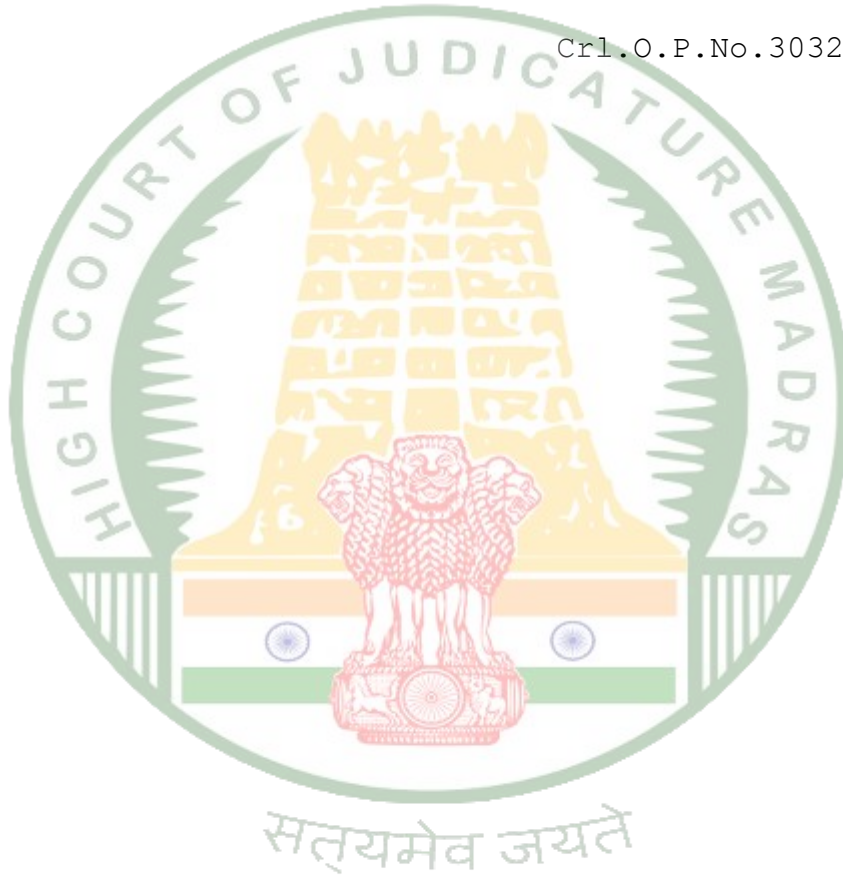
2.The Public Prosecutor, High Court of Madras.

+lcc to Mr.V.Raghupathi, Advocate Sr.No.60557

VGII(CO)

sm:24.10.2018

CrI.O.P.No.30323 of 2013



WEB COPY