

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2018

C O R A M

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

Cr1.O.P.No.26904 of 2015  
and  
M.P.Nos.1 and 2 of 2015

1.T.Gnanambal  
2.A.Thangavelu  
3.T.Balamugunthan  
4.B.Sathyapriya ...Petitioners/respondents 2 to 5

Vs.

Kavipriya ...Respondent/petitioner

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records and quash petition in D.V.A.No.12 of 2015 pending on the file of the learned Judicial Magistrate Court No.2, Pollachi.

For Petitioners : Mr.S.Nagarajan

For Respondent : Mr.k.S.Kaviarasu

ORDER

The petitioners are respondents 2 to 5 in D.V.A.No.12 of 2015 on the file of the Judicial Magistrate No.II, Pollachi.

2. The respondent/complainant filed a complaint under Section 12 of Protection of Women from Domestic Violence Act, 2005, against her husband, parents-in-law, brother-in-law and his wife. According to the respondent/complainant, her husband, who was the first respondent in DVA.No.12/2015 (since deceased) harassed her both physically and mentally and that the respondents 2 and 3, who are her parents-in-law demanded dowry of Rs.1,00,000/- and also tortured her. Her further contention is that respondents 3, 4 and 5 /petitioners 3 and 4 instigated the first respondent (i.e.,) to file a Divorce Petition in HMOP.No.175/2013 before the Sub Court, Pollachi. The complainant had therefore prayed the Judicial Magistrate No.II, Pollachi, to take action against the respondents under Sections 18 and 22 of the Protection of Women from Domestic Violence Act, 2005.

3. The present petition has been filed by the respondents 2 to 5, alleging that the respondent/complainant has filed the DVA.No.12 of 2015 before the Judicial Magistrate No.II, Pollachi, only to wreck vengeance against the present petitioners and that the respondent is not of good character as she had extra-marital affairs. They have also denied all the allegations of the respondent/complainant in DVA.No.12 of 2015 on the file of the Judicial Magistrate No.II, Pollachi.

4. Mr.S.Nagarajan, the learned counsel appearing for the petitioners would contend that petitioners 3 and 4 never had lived with the respondent and her husband/first respondent at any point of time and that there are no specific allegations against them in the complaint filed before the Judicial Magistrate No.II, Pollachi in DVA.No.12/2015.

5. A perusal of the complaint in DVA.No.12 of 2015 on the file of the Judicial Magistrate No.II, Pollachi, shows that there are no specific allegations against the petitioners 3 and 4 and the only allegation against them is that they instigated the first respondent namely, the husband of complainant to file a Divorce Petition in HMOP.No.175/2013 before the Sub Court, Pollachi. It is seen from the petition in DVA.No.12 of 2015 that the petitioners 3 and 4 are residing at a different place at Pollachi and the fourth petitioner is the brother-in-law of the complainant. Since there are no prima facie materials available on record to proceed further against the petitioners 3 and 4, the proceedings in DVA.No.12 of 2015 is liable to be quashed as far as petitioners 3 and 4 are concerned. As regards the other petitioners, there are certain allegations made against them and therefore, the Judicial Magistrate No.II, Pollachi is directed to proceed against the petitioners 1 and 2/respondents 2 and 3, who are the parents-in-law of the complainant.

6. With this above observation, the present Criminal Original Petition is partly allowed and the proceedings in DVA.No.12 of 2015 is quashed as against petitioners 3 and 4, who were shown as the respondents 4 and 5 in DVA.No.12 of 2015 and this petition is dismissed as regards the other petitioners. The learned counsel appearing for the petitioners would contend that since first and second petitioners are very old, their presence may be dispensed with. Considering the request made by the learned counsel appearing for the petitioners, the personal appearance of petitioners 1 and 2 who were shown as respondents 2 and 3 in DVA.No.12/2015 is dispensed with. However, they should appear before the Judicial Magistrate No.II, Pollachi, whenever their presence is required by the concerned Magistrate. The learned Judicial Magistrate No.II, Pollachi, is directed to

dispose of the case in DVA.No.12 of 2015 within a period of six months from the date of receipt of a copy of this order.

7. In the result, this Criminal Original Petition dismissed.. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-  
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

dna

To

1. THE JUDICIAL MAGISTRATE NO.II,  
POLLACHI.

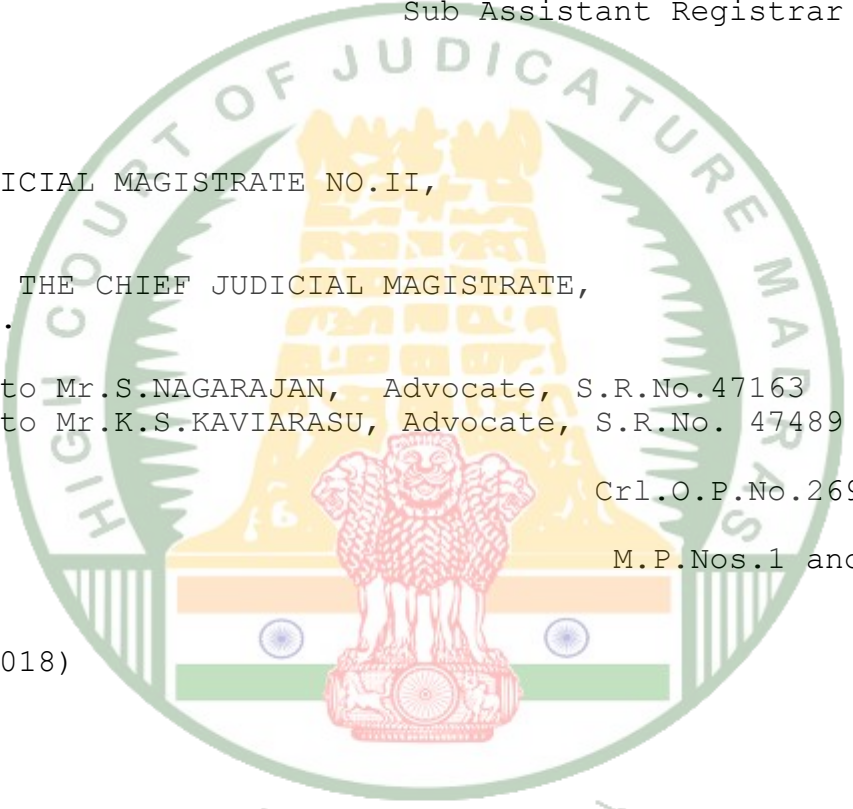
2. DO THRO THE CHIEF JUDICIAL MAGISTRATE,  
COIMBATORE.

+1cc to Mr.S.NAGARAJAN, Advocate, S.R.No.47163

+1cc to Mr.K.S.KAVIARASU, Advocate, S.R.No. 47489

Crl.O.P.No.26904 of 2015  
and  
M.P.Nos.1 and 2 of 2015

MR(CO)  
TR(03/08/2018)



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