

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2018

CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.No.17553 of 2014 and Crl.O.P.No.22473 of 2015
and MP.Nos.1 & 2 of 2014 and MP.No.1 of 2015
and Crl.MP.No.16543 of 2017

1. Chandrasekaran
2. Parvathi
3. Son Babu
4. Kirubaleeswari

... Petitioners/Respondents 1 to 4

in both the Crl.OPs.

Vs.

1. Kumathavalli
2. Minor Bharath
3. Minor. Sarath

... Respondents/Petitioners

in both the Crl.OPs.

[2nd and 3rd petitioners are represented
by their mother next friend first respondent herein]

Prayer in Crl.OP.No.17553 of 2014: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in connection with M.C.No.4 of 2014 on the file of the learned Judicial Magistrate Additional Mahila Court, Cuddalore and quash the same.

Prayer in Crl.OP.No.22473 of 2015: Criminal Original Petition is filed under Section 407 of the Code of Criminal Procedure, to withdraw and to transfer the above M.C.No.4 of 2014 from the file of the Additional Mahila Court (Judicial Level), Cuddalore to the Metropolitan Magistrate Court, Egmore, Chennai.

For Petitioners	: Mr.R.Marudhachala Murthy
	For Mr.R.Gopinath
For Respondents	: Ms.P.Saranya
	For Mr. M.Jaikumar

C O M M O N O R D E R

Crl.OP.No.17553 of 2014

This petition has been filed by the respondents 1 to 4 in M.C.No.4 of 2014 on the file of the learned Judicial Magistrate, Additional Mahila Court (Magistrate level),

Cuddalore to quash the proceedings against them in the above M.C.No.4 of 2014.

2. The respondents herein have filed an application under Section 12 of the Domestic Violence Act (herein after referred to as 'Act') seeking certain reliefs under the said Act.

3. The learned counsel for the petitioners has submitted that the marriage between the 1st petitioner's son Thiru. Mohandoss and the first respondent was solemnized on 04.06.2003 as per Hindu Rites and customs. He further submitted that subsequently, the said Mohandoss died on 01.04.2014. He further submitted that the petitioners 1 and 2 are the parents of the said Mohandoss and the 4th petitioner is the daughter of the petitioners 1 and 2 and the 3rd petitioner is the husband of the 4th petitioner. He further submitted that during pendency of this petition, the 3rd petitioner died. He further submitted that the 4th petitioner is the elder sister of the said Mohandoss and even before the marriage between the first respondent and said Mohandoss, the Marriage between the petitioners 3 and 4 was solemnized and from the date of marriage, they were residing at Chennai. He further submitted that the petitioners 3 and 4 have never lived with the respondent herein in a domestic relationship in a shared house hold and therefore he prayed to quash the proceedings against the petitioner No.4. He further submitted that the petitioners 1 and 2 also have not committed any domestic violence and therefore, the proceedings against them also to be quashed.

4. The learned counsel for the respondents has submitted that it is not disputed that the petitioners 1 and 2 are the father-in-law and mother-in-law of the first respondent herein and they were lived in a shared household and therefore, the Domestic Violence Act will attract against them. She further submitted that insofar as the petitioners 3 and 4 are concerned, they also lived with the respondent herein in a shared household and therefore, the said Act will attract against them also. She further submitted that the petitioners are liable to return household articles which have been illegally restrained by them and therefore, she prayed to dismiss the petition against all the petitioners.

5. It is an admitted fact that the first respondent was married to one Mohandoss who is the son of the petitioners 1 and 2. It is also not in dispute that the respondents 2 and 3 are the children of the said Mohandoss. It is seen from the affidavit filed by the first respondent herein in M.C.No.4 of 2014 that the 4th petitioner herein is residing at Chennai along with her husband. Since the 4th petitioner is the daughter of the petitioners 1 and 2, she may have visits occasionally to her parents' house but the same cannot be taken as that she is

residing in the shared house hold. Therefore insofar as the 3rd petitioner is concerned, the proceedings has to be quashed.

6. Insofar as the petitioners 1 and 2 are concerned, as already pointed out that they are father-in-law and mother-in-law of the first respondent and they are paternal grand parents to the respondents 2 and 3. Further, the learned counsel for the respondent has submitted that the petitioners have to return the household articles as per the list submitted by the respondents before the trial Court. The learned counsel for the petitioners has not totally denied the said allegation. However, he disputed the list of the articles. So, the said dispute has to be resolved only after taking evidence. Hence, this Court is of the view that there is a prima facie case against the petitioners 1 and 2. Therefore, this petition is liable to be dismissed against the petitioners 1 and 2.

7. In the result, the proceedings against the petitioner No.4 in M.C.No.4 of 2014 on the file of the learned Judicial Magistrate, Additional Mahila Court (Magistrate level), Cuddalore, is quashed. Insofar as the petitioner No.3 is concerned, since he died automatically proceedings against him is abated. So far as the petitioners 1 and 2 are concerned, this petition is dismissed. Considering their age, their personal appearance before the trial Court is dispensed with. However, they should appear before the trial Court as and when required by the trial Court. Since the above case is pending from the year 2014, the trial Court is directed to dispose of M.C.No.4 of 2014 as early as possible preferably within five months from the date of receipt of copy of this order.

8. CrI.OP.No.22473 of 2015

This petition also has been filed by the respondents 1 to 4 in M.C.No.4 of 2014 to transfer the said M.C. to any of the Metropolitan Magistrate Courts at Egmore, Chennai

9. In view of the order passed in CrI.OP.No.17553 of 2014, this petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

msrm

To

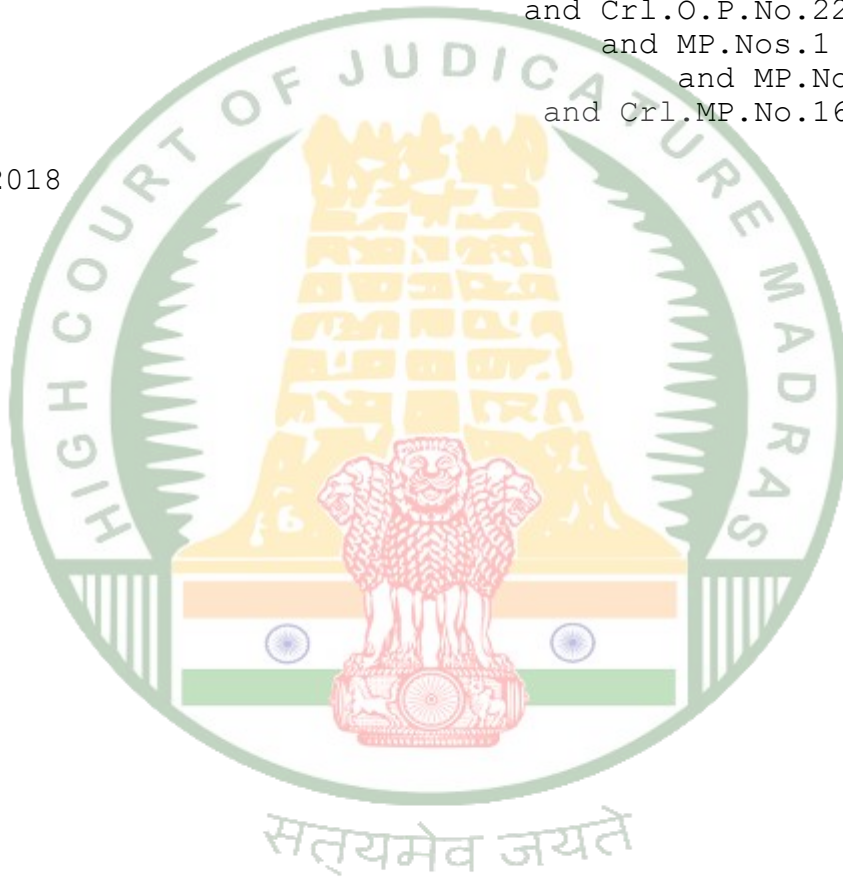
1. The Judicial Magistrate,
Additional Mahila Court,
Cuddalore.

+2cc to M/s.P.Saranya, Advocate sr.no.59198

+1cc to Mr.Gopinath, Advocate sr.no.59269

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