

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.18149 of 2018
and
Crl.MP.No.9474 of 2018

1.V.Ejaumalai

2.Loganayagi

... Petitioners

Vs

A.Buvaneswari

...Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the complaint in DVC.No.22 of 2016 dated 03.11.2016 pending on the file of the Judicial Magistrate No.III, Pondicherry and quash the same as illegal.

For Petitioners : Mr.A.Gokulakrishnan
for Mr.K.Sasindaran

O R D E R

This Criminal Original Petition has been filed to call for the records relating to the complaint in DVC.No.22 of 2016 dated 03.11.2016 pending on the file of the Judicial Magistrate Court No.III, Pondicherry and quash the same as illegal.

2. For the sake of convenience, the petitioners and the respondent will be referred to by their name.

3. Bhuvaneswari got married to Ejaumalai on 20.10.2003 and they have two children through the wedlock. Their marriage ran into rough weather, resulting in the spouses getting estranged. Admittedly, Bhuvaneswari and Ejaumalai decided to sever their matrimonial relationship and therefore, they filed M.O.P.No.35 of 2015 before the Family court, Puducherry under Section 13-B(1) of the Hindu Marriage Act, 1955, for dissolution of the marriage by mutual consent. Accordingly, the marriage was dissolved by mutual consent, by order dated 24.08.2015 in M.O.P.No.35 of 2015 passed by the District Judge, Family Court,

Puducherry. Thereafter, each one took to their way to live independently. While so, Loganayaki, the mother of Ejaumalai, filed an application before the Women's Commission, Puducherry, seeking a direction to Bhuvanewari to produce the two children for her visitation. Summons was issued by the Commission to Bhuvanewari, asking her to appear before the Commission on 03.10.2016. Unable to withstand such harassment and interference by Loganayaki, Bhuvanewari has filed DVC.No.22 of 2016 before the Judicial Magistrate No.III, Pondicherry, seeking various reliefs, including the relief of maintenance of Rs.25,000/- per month. Challenging the proceeding in DVC.No.22 of 2016, Ejaumalai and Loganayaki are before this Court.

4. Heard the learned counsel for Ejaumalai and Loganayaki, who submitted that after the divorce was granted by mutual consent, there is no reason for Bhuvanewari to initiate proceedings under the Domestic Violence Act.

5. It is brought to the notice of this Court that in DVC.No.22 of 2016, an interim order of maintenance has been passed by the Judicial Magistrate No.III, Pondicherry, challenging which, Ejaumalai and Loganayaki have filed an appeal before the Sessions Court under the Domestic Violence Act, 2005 and the same is pending. This fact has been completely suppressed in the petition.

6. Be that as it may, when Loganayaki and Ejaumalai are agitating the matter before the Sessions Court, there is no reason for them to approach this Court for quashing the proceedings under the Domestic Violence Act, 2005. Section 36 of the Domestic Violence Act clearly states that the provisions of the Domestic Violence Act shall be in addition and not in derogation of the provisions of any other law.

7. The learned counsel for Ejaumalai and Loganayaki placed strong reliance on the unreported judgment of the Punjab and Haryana High Court in Amit Agarwal and others Vs. Sanjay Aggarwal and others and submitted that when once matrimonial relationship gets severed, the proceedings under the Domestic Violence Act cannot be initiated.

8. In this case, after the matrimonial relationship got severed, Ejaumalai and Loganayaki did not remain silent. Loganayaki started harassing Bhuvanewari, by approaching the Women's Commission and asking her to produce the children there. That apart, even after granting divorce between these spouses, maintenance can be claimed under the Domestic Violence Act for the children at least. In such view of the matter, this is not a fit case to quash the proceedings in DVC.No.22 of 2016.

In the result, this petition is dismissed. Consequently,
connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

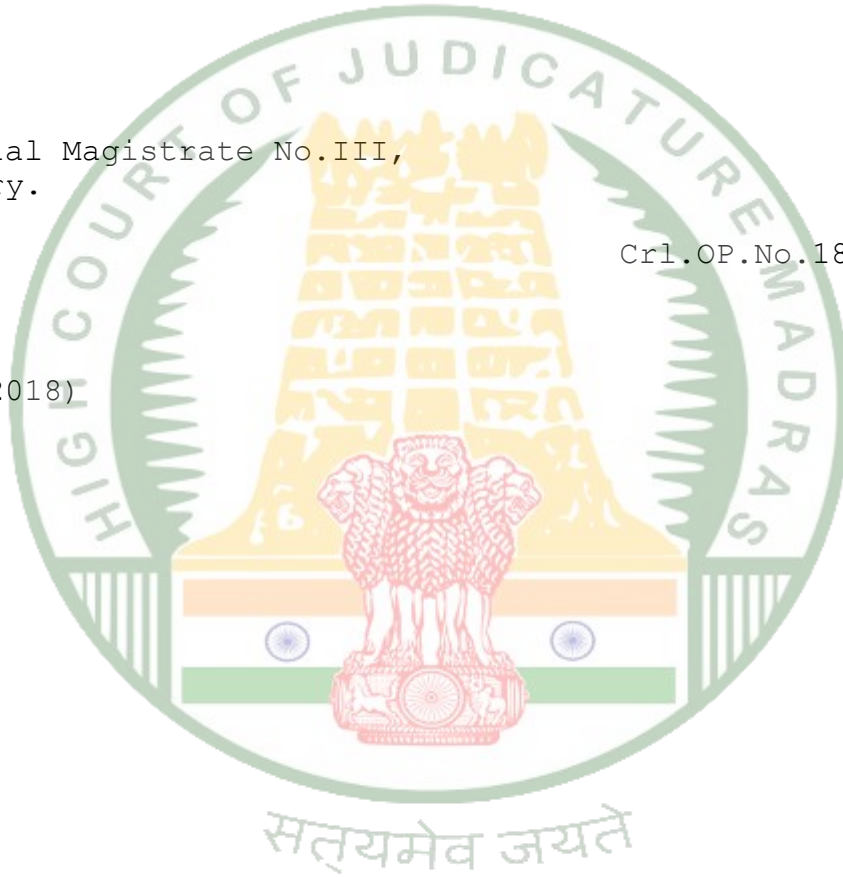
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To

The Judicial Magistrate No.III,
Pondicherry.

Crl.OP.No.18149 of 2018

GN(26/07/2018)



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