

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:20.12.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.16741 of 2017

and

CrI.M.P.Nos.10283 & 10284 of 2017 & 13161 of 2018

1.Vadlakondasuman

2.Lakshmipathi

3.Chaitanyavadalakonda

... Petitioners

Vs.

Nukalapriyanka

...Respondent

Prayer: Criminal Original petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the complaint in D.V.No.35 of 2016 on the file of the learned Judicial Magistrate No.I, Coimbatore, quash the same by allowing this criminal original petition.

For Petitioners : Mr.D.R.Arun kumar

For Respondent : Mr.P.Vijendran
for G.Saravanakumar

सत्यमेव जयते
O R D E R

This petition has been filed seeking to quash the proceedings in D.V.No.35 of 2016, pending on the file of the Judicial Magistrate No.I, Coimbatore.

2. The respondent has initiated proceedings under the Domestic Violence Act seeking for a relief under Sections 18 and 20 of the Act.

3. The entire allegation, that has been made in the complaint, pertains to the various incidents that is said to have taken place in USA, when the respondent was living with the

petitioners. The learned counsel for the petitioners would submit that the marriage has already been dissolved by an order passed by the District Court of Texas and the respondent has concealed the same and filed the present Petition before the Court below. The learned counsel also submitted that except for some general allegations made against the second and third petitioners, they are unnecessary parties to the proceedings.

4. The learned counsel for the respondent would submit that the respondent was subject to cruelty, while she was staying in USA. The respondent returned back to India in October 2012, thereafter, she was not able to go and join with the petitioners. The learned counsel further submitted that the divorce granted by the District Court of Texas, is not binding on the respondent and the respondent has now been completely deserted by the petitioners without paying any amount towards maintenance.

5. This Court has carefully considered the submissions made on either side and also the materials placed on record.

6. It is seen that a decree of divorce has been passed by the District Court of Texas on 14.04.2015. The binding nature of this decree will have to be decided only before the Court below and that by itself is not a ground to quash the proceedings. The first petitioner, who is admittedly the husband, has not paid any amount towards maintenance to the respondent. Sufficient allegations have been made against the first petitioner. Whether the Domestic violence committed against the respondent at USA will come within the preview of Section 3 of the Act, is again an question, which has to be agitated only before the Court below.

7. Insofar as the second and third petitioners are concerned, except for some general allegations, no specific allegations have been made against these petitioners. In the considered view of this Court, the second and third petitioners are not necessary parties to the proceedings and no relief has been sought for against them. The first petitioner has to necessarily face the proceedings before the Court below. It is left open to the first petitioner to raise all the issues before the Court below and the Court below shall consider the same on its own merits and in accordance with law.

8. In the result, this Criminal Original Petition is partly allowed and the proceedings insofar as the first petitioner is concerned shall continue before the Court below and the proceedings are quashed, insofar as the second and third petitioners are concerned. The Court below is directed to

complete the proceedings within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

nmm/dss

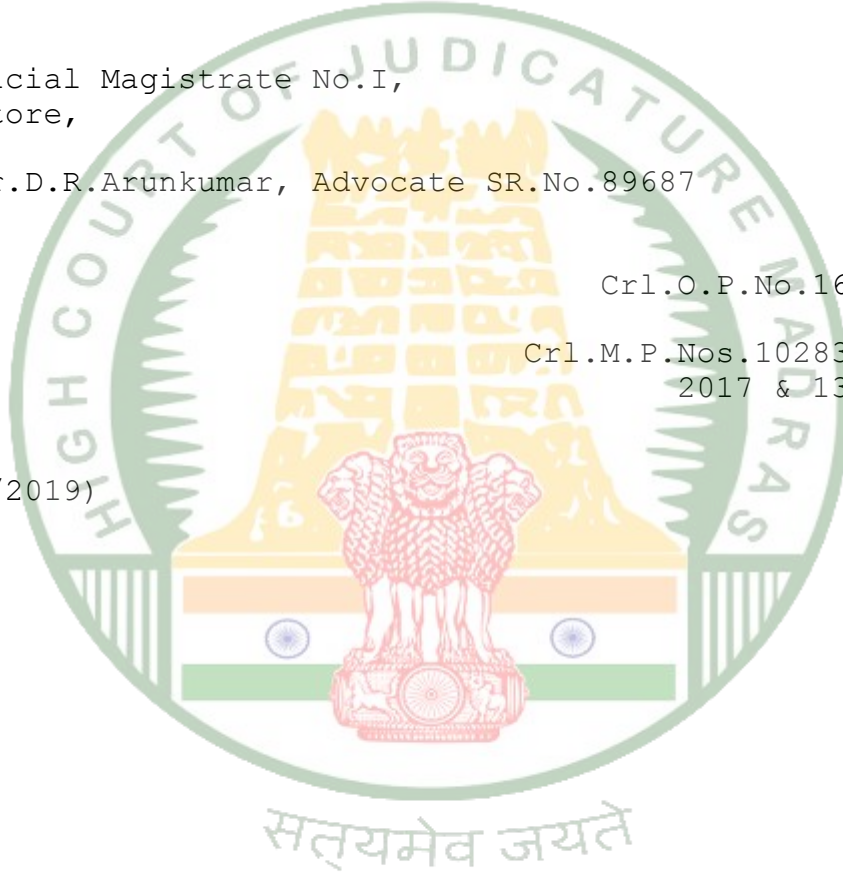
To

1.The Judicial Magistrate No.I,
Coimbatore,

+lcc to Mr.D.R.Arunkumar, Advocate SR.No.89687

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and
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AD (CO)
GMY (23/01/2019)



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