

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.03.2019

Coram

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.1082 of 2016
and
Crl.M.P.Nos.474 & 475 of 2016

1. Rushindar
2. Shanmugam
3. Thenmozhi
4. Bharanidharan Petitioners / Respondents

Vs.

Suriya Nandhini Respondent / Complainant

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in pursuant to case in D.V.O.P.No.52 of 2015 on the file of Special Mahila Judicial Magistrate, Salem and quash the same.

For Petitioners: Mr.M.Elango

For Respondent : Mr.T.M.Hariharan

ORDER

This Criminal Original Petition has been filed to call for the records in pursuant to case in D.V.O.P.No.52 of 2015 on the file of Special Mahila Judicial Magistrate, Salem and quash the same.

2. The 1st petitioner is the husband of the respondent and petitioners 2 to 4 are in-laws of the respondent. The marriage between the 1st petitioner and the respondent was solemnized on 07.12.2011 and thereafter, due to matrimonial disputes, the respondent and her husband/1st petitioner were living separately from the matrimonial home. Under this circumstance, the respondent herein filed a petition under Domestic Violence Act in D.V.O.P.No.52 of 2015 on the file of Special Mahila Judicial Magistrate, Salem and implicated the petitioners as parties to the petition and sought action as against them under Domestic

Violence Act. The said D.V.O.P.No.52 of 2015 is pending for trial. At this stage, the petitioners pray to quash the proceedings in D.V.O.P.No.52 of 2015.

3. Heard Mr.M.Elango, learned counsel for the petitioners and Mr.T.M.Hariharan, learned counsel for the respondent.

4. It is seen that the relief sought for by the respondent in the domestic violence case with regard to residential rights, compensation, etc., can be made and claimed as against her husband, who is already a party in that case. The petitioners 2 to 4 herein are only in-laws of the respondent and they are living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against the petitioners 2 to 4/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 2 to 4 against the respondent itself seems to be false. While that being so, there cannot be any act of any domestic violence as defined under Domestic Violence Act against these petitioners 2 to 4. In the absence of the same, the proceedings as against the petitioners 2 to 4 cannot be maintained and consequently, the petitioners 2 to 4 need not undergo the ordeal of facing a criminal trial.

5. In view of the above, this Court is inclined to quash the proceedings in D.V.O.P.No.52 of 2015, on the file of Special Mahila Judicial Magistrate, Salem, insofar as the petitioners 2 to 4 are concerned, on condition that, they shall ensure that the husband of the respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of D.V.O.P.No.52 of 2015, on the file of Special Mahila Judicial Magistrate, Salem, as ad-interim maintenance, without prejudice to both the parties, failing which, this order shall stand automatically cancelled. On such deposit being made, the respondent is entitled to withdraw the same.

6. Insofar as the husband of the respondent is concerned, since the impugned proceedings in D.V.O.P.No.52 of 2015 is pending from the year 2015 onwards, it would be appropriate to direct the trial Court to complete the trial within a period of three months from the date of receipt of copy of this order. The husband of the respondent is directed to appear before the trial Court on the next hearing date, failing which, the respondent is at liberty to approach this Court.

7. In the result, this Criminal Original Petition is partly allowed in respect of the petitioners 2 to 4. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Special Mahila Judicial Magistrate,
Salem.

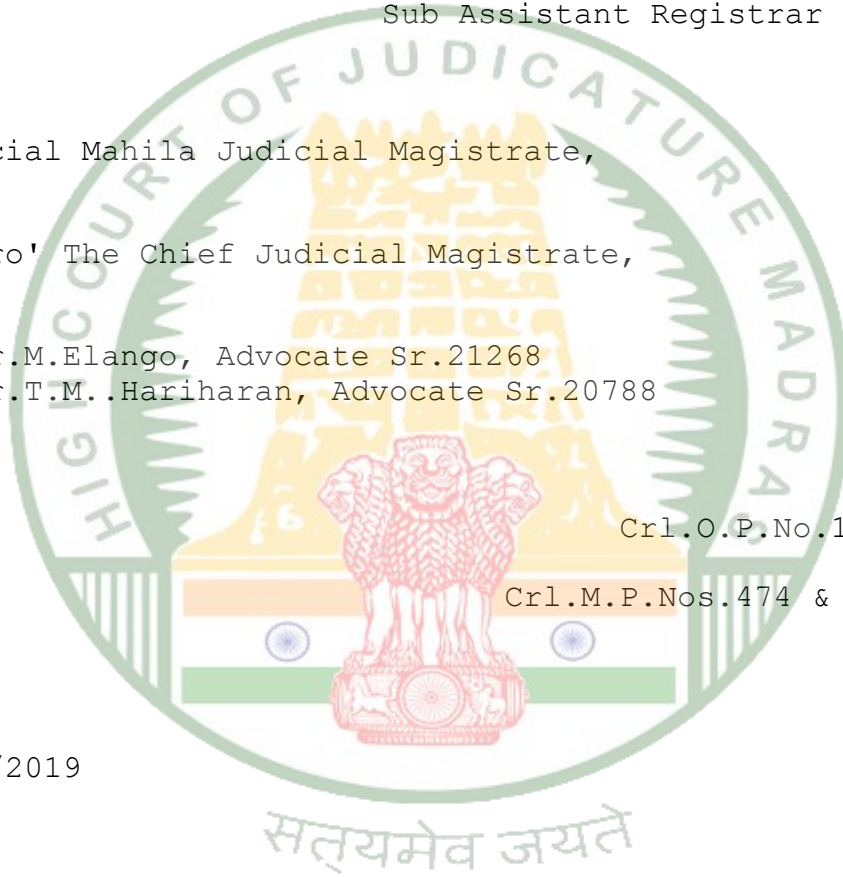
2.-Do- Thro' The Chief Judicial Magistrate,
Salem.

+1cc to Mr.M.Elango, Advocate Sr.21268

+1cc to Mr.T.M..Hariharan, Advocate Sr.20788

Crl.O.P.No.1082 of 2016
and
Crl.M.P.Nos.474 & 475 of 2016

gj[co]
srg 03/04/2019



WEB COPY