

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2019

CORAM:

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

CRL.O.P.No.11624 of 2016

and

CRL.M.P.Nos.5931 of 2016 and 10724 of 2017

1.Amalraj Baskar Vidyok

2.Annal Prakasam

... Petitioners/ Respondents 1 & 3
Vs.

1.Usha Roselin

2.The District Social Welfare Officer,
District Social Welfare Office,
Singaravelar Maligai, 8th Floor,
Collectorate 600 001.
Chennai & District.

3.The Protection Officer,
District Social Welfare Office,
Singaravelar Malligai, 8th Floor,
Collectorate,
Chennai-600 001.

...Respondents/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to M.C.No.61 of 2015 on the file of the Hon'ble ***IX Metropolitan Magistrate** Court, Saidapet, Chennai & District and quash the same.

For Petitioners : Mr.J.Titus Enock

For Respondent : Mr.D.Anbarasu (for R1)

Mr.M.Mohamed Riyaz (for RR2 & 3)
Additional Public Prosecutor.

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O R D E R

This Criminal Original Petition has been filed to quash the proceedings in M.C.No.61 of 2015, filed by the 1st respondent, on the file of the learned ***IX Metropolitan Magistrate**, Saidapet, Chennai.

2.The 1st petitioner is the husband of the 1st respondent and 2nd petitioner is the mother-in-law of the 1st respondent herein.

The marriage between 1st petitioner and 1st respondent was solemnized on 17.01.2013. Subsequently, the 1st petitioner and the 1st respondent lived in Sri Lanka and there was a misunderstanding between them and on that ground they lived separately. While so, the 1st respondent/wife filed an application before the Protection Officer for protection order, residential rights, compensation and maintenance and to take action as against her husband and her mother-in-law under Domestic Violence Act. After conducting enquiry, the protection officer filed a report before the learned ***IX Metropolitan Magistrate**, Saidapet, Chennai and the same was taken on file in M.C.No.61 of 2015 and the same is pending for trial. At this stage, the petitioners herein who are the husband and mother-in-law of the respondent prays to quash the proceedings in M.C.No.61 of 2015.

3. Heard both sides.

4. It is seen that the relief sought for by the 1st respondent in the domestic violence case with regard to residential rights, compensation, etc., can be made and claimed as against her husband/1st petitioner, who is already a party in that case. The 2nd petitioner herein is only the mother-in-law of the 1st respondent and they are living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against these petitioners/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 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 the 2nd petitioner. In the absence of the same, the proceedings as against the 2nd petitioner cannot be maintained and consequently, the 2nd petitioner 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 M.C.No.61 of 2015, on the file of the learned ***IX Metropolitan Magistrate**, Saidapet, Chennai, insofar as the 2nd petitioner is concerned, on condition that, she shall ensure that her son viz., 1st petitioner/husband of the 1st respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) per month on or before 5th of every English Calendar month to the credit of M.C.No.61 of 2015, on the file of the learned ***IX Metropolitan Magistrate**, Saidapet, Chennai, as ad-interim maintenance, starting from May 2019 onwards, 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. For the month of May 2019, the payment shall be made on or before 20.05.2019.

6. Insofar as 1st petitioner/husband of the 1st respondent is concerned, since the impugned proceedings in M.C.No.61 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 1st petitioner/husband of the respondent viz., Amalraj Baskar Vidyok, is directed to appear before the trial Court on the next hearing date, failing which, the 1st respondent is at liberty to approach this Court.

7. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition are also closed.

rm

Sd/-
Assistant Registrar(AD IV)

***prayer amended as per order
of this court dated 24.07.19
made in CrI.MP.No.9921/19 in
CrI OP No.11624/16.**

Sd/-
**Assistant Registrar (AD-IV)
Dated: 29.07.2019**

//True Copy//

Sub Assistant Registrar

To

1. The X Metropolitan Magistrate,
Saidapet,
Chennai.
2. ***The IX Metropolitan Magistrate,
Saidapet, Chennai.**
3. The District Social Welfare Officer,
District Social Welfare Office,
Singaravelar Maligai, 8th Floor,
Collectorate 600 001.
Chennai & District.

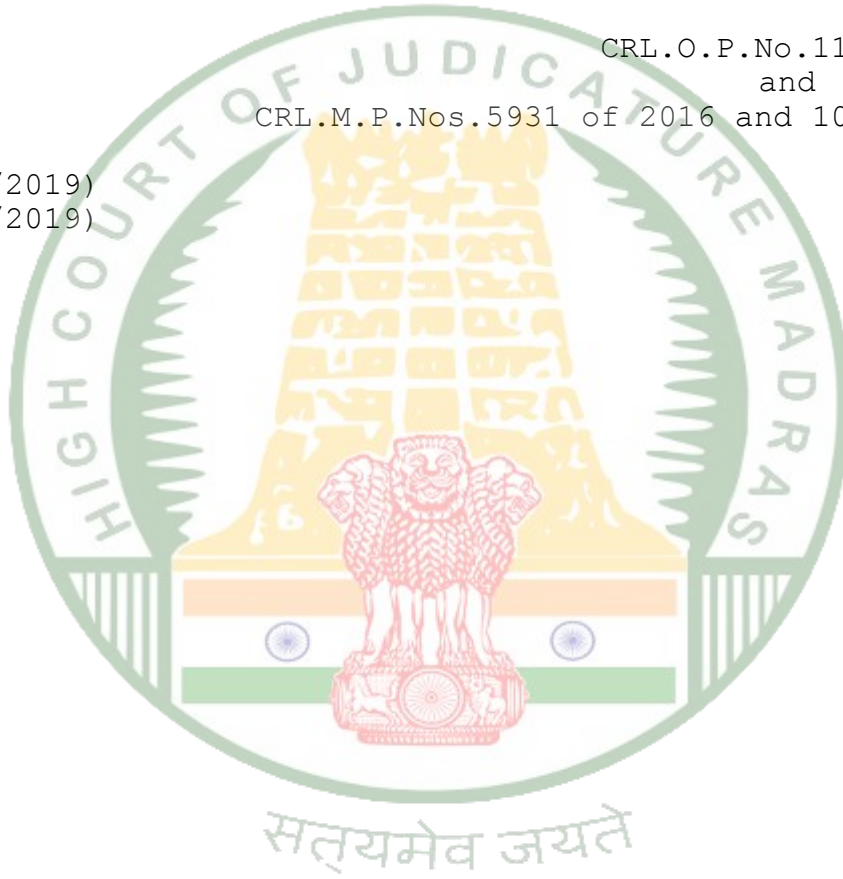
**To be substituted to
the order already
despatched on 16.07.19**

4. The Protection Officer,
District Social Welfare Office,
Singaravelar Malligai, 8th Floor,
Collectorate,
Chennai-600 001.

+lcc to Mr.J.Titus Enock, Advocate, SR.No.63238/19
+lcc to Mr.P.Vijendran, Advocate, SR.No.40551
(dated: 12/07/2019)

CRL.O.P.No.11624 of 2016
and
CRL.M.P.Nos.5931 of 2016 and 10724 of 2017

Kak (29/05/2019)
Kak (29/07/2019)



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