

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.20289 of 2013

and

Crl.M.P.No.1 of 2013

1.Vasudevi

2.R.Prabhu

: Petitioners/Respondent 2 & 3

Vs.

C.Thamaraiselvi

: Respondent/Petitioner

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in D.V.C.No.10 of 2012 on the file of the Judicial Magistrate No.V, Coimbatore and quash the proceedings therein as far as the petitioners herein are concerned.

For Petitioners : Mr.C.S.Dhansekaran

For Respondent : Mr.V.Purushothaman

No Appearance

ORDER

The respondent herein has filed the petition under Section 12(1) of the Protection of Women from Domestic Violence Act, 2005, against the petitioners herein. The said case was taken on file by the learned Judicial Magistrate No.V, Coimbatore, in D.V.C.No.10 of 2012. During the pendency of the said case, the petitioners herein have filed the present Criminal Original Petition to call for the records and to quash the proceedings in D.V.C.No.10 of 2012 on the file of the Judicial Magistrate No.V, Coimbatore.

2. The learned counsel for the petitioners would submit that the petitioners have been made as 2nd and 3rd respondents in the petition filed by the respondent herein in D.V.C.No.10 of 2012 on the file of the learned Judicial Magistrate No.V, Coimbatore. There is no domestic relationship between the petitioners and husband of the respondent as defined under Section 2(f) of the Protection of Women from domestic Violence Act, 2005 herein after referred to as "Act", which is clearly says that as the relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living

together as a joint family. In order to bring the petitioners herein within the ambit of Section 2(f) of the Act, they should be related to the husband of the respondent herein by consanguinity or marriage. It is further submit that in the petition filed by the respondent, the first petitioner has been referred to as concubine of her husband and the second petitioner is their son. They are not related by adoption and also they are not family members of her husband. In the petition it has been specifically averred that the first petitioner herein has no legal rights with her husband and she is nothing but a concubine. Therefore, the case under Domestic Violence Act against these petitioners is liable to be quashed.

3. Today, when the matter is taken up for hearing there is no representation on behalf of the respondent. Heard the learned counsel for the petitioners and perused the materials available on record.

4. The first petitioner is shown as a second respondent in D.V.C.No.10 of 2012 and described as concubine and also the second petitioner shown as the son of the first petitioner herein. Whether, the petitioners have committed the offence under Section 12(1) of the Protection of Women from Domestic Violence Act, 2005, or not is a matter of trial. Therefore, it is for the petitioners to establish their case before the trial Court and therefore, this Court is not convinced with the arguments putforth by the learned counsel for the petitioners, since the first petitioner is shown as concubine of the respondent's husband and the second petitioner is shown as son. Further, it is open to the petitioners to canvas the Court below regarding their relationship and whether they are living with the husband of the respondent herein or not. The trial Court is the competent authority to decide this matter. This Court finds there is no merit in this petition and not inclined to invoke the power under Section 482 Cr.P.C., to quash the case.

5. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

sbn

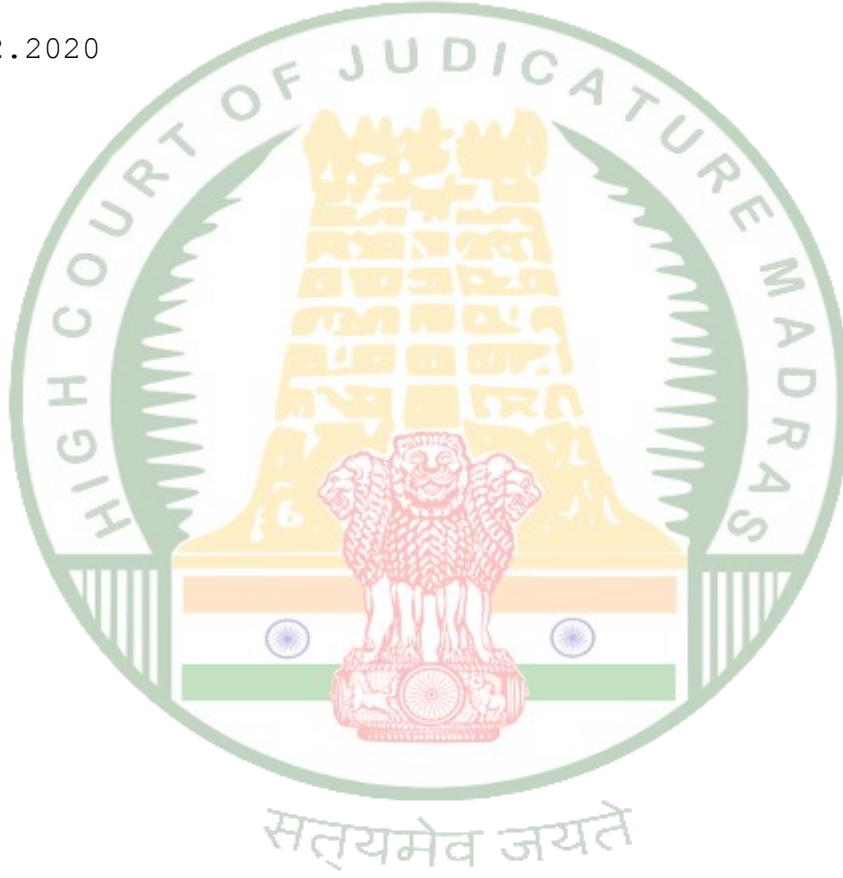
To

The Judicial Magistrate No.V,
Coimbatore.

+1cc to Mr.C.S.Dhanasekaran, Advocate, SR.No.96877.

CrI.O.P.No.20289 of 2013
and
CrI.M.P.No.1 of 2013

MR (CO)
CSR: 25.02.2020



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