

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.NO.929 OF 2019
AND CRL.M.P.NO.608 OF 2019

1.S.Vijay Anand

(Petition is dismissed insofar as 1 Petitioner
as per order of this Court dated 11.01.2019)

2.V.Selvaraj

3.Tmt.Rajeshwari Petitioners

Vs.

Tmt.Sinduja ... Respondent

PRAYER:

Criminal Original Petition filed under Section 482 Cr.P.C.,
praying to call for the records pertaining to the
D.V.C.No.7/2018 on the file of the Learned Judicial Magistrate
No.1, Chidambaram and quash the same.

For Petitioners: Mr.B.Gopalakrishnan

For Respondent : Mr.M.Karthick

ORDER

This Criminal Original Petition has been filed to quash the
proceedings in D.V.C.No.7 of 2018, on the file of the learned
Judicial Magistrate No.1, Chidambaram.

2.The petitioners are the husband and the in-laws of the
respondent and the marriage between A1/S.Vijay Anand and the
respondent Viz., Uma was solemnized on 13.11.2009. Thereafter,
due to matrimonial disputes the respondent and her husband were
living separately from the matrimonial home. Under this
circumstance, the respondent herein filed a petition under
Domestic Violence Act in D.V.C.No.7 of 2018 on the file of the

learned Judicial Magistrate No.1, Chidambaram and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.7 of 2018 is pending for trial. At this stage, the petitioners herein who are the husband and in-laws of the respondent pray to quash the proceedings in D.V.C.No.7 of 2018.

3.Heard, the learned counsel appearing for the petitioners and the learned counsel appearing 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 and 3 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 petitioners 2 and 3/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 and 3 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 petitioners 2 and 3. In the absence of the same, the proceedings as against petitioners 2 and 3 cannot be maintained and consequently, the petitioners 2 and 3 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.C.No.7 of 2018, on the file of the Judicial Magistrate No.1, Chidambaram insofar as petitioners 2 and 3 are concerned, on condition that, they shall ensure that the A1/husband of the 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 D.V.C.No.7 of 2018, on the file of the Judicial Magistrate No.1, Chidambaram, 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 A1/husband of the respondent is concerned, since the impugned proceedings in D.V.C.No.7 of 2018 is pending from the year 2018 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. A1/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. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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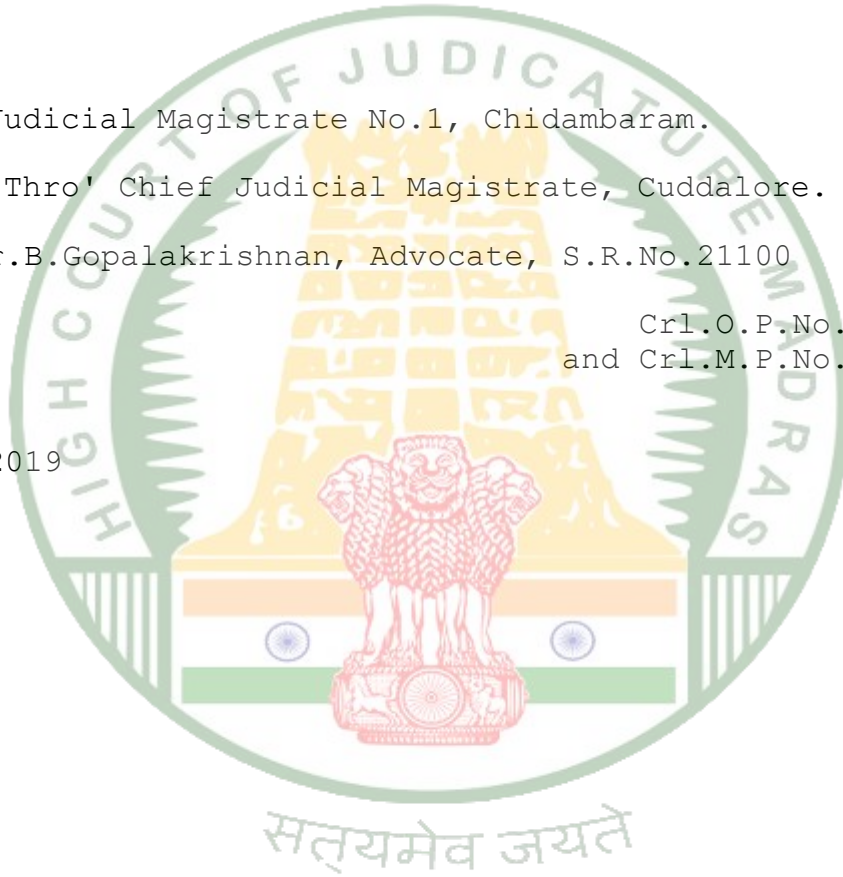
To

1. The Judicial Magistrate No.1, Chidambaram.
2. -Do- Thro' Chief Judicial Magistrate, Cuddalore.

+1cc to Mr.B.Gopalakrishnan, Advocate, S.R.No.21100

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GJII(CO)
CS/01/04/2019



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