

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2019

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.25863 of 2013
and
Crl.M.P.No.1 of 2013

1.Subramaniam,
S/o.Kandasamy

2.Dhanalakshmi,
W/o.Kandasamys

3.Durisamy,
S/o.Senkottaiyan

4.Matheswari,
W/o.Duraisamy

... Petitioners/Accused

Versus

S.Amaravathi
W/o.Subramaniam

... Respondent/Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the pending proceedings in D.V.C.No.9 of 2013 on the file of the learned Judicial Magistrate No.II, Namakkal District and quash the same.

For Petitioners: Mr.C.D.Johnson

For Respondent : No Appearance

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ORDER

The petitioners are the respondents in D.V.C.No.9 of 2013 filed by the respondent herein, which is pending on the file of the Judicial Magistrate Court No.II, Namakkal. The respondent herein is the petitioner in D.V.C.No.9 of 2013.

2.The 1st petitioner is the husband of the respondent, the 2nd petitioner is her Mother-in-law, the 3rd petitioner is her brother-in-law and the 4th petitioner is her sister-in-law.

3.The respondent had given a complaint to the Social Welfare Officer, Namakkal, who conducted an enquiry and forwarded the Domestic Incident Report to the learned Judicial Magistrate No.II, Namakkal on 12.07.2013 and thereafter, the case came to be registered. The relief sought for by the respondent is that, she wanted share in the 1st petitioner's family property and the return of her sridhana articles and Monthly Maintenance. From the Domestic Incident Report, it is

marriage between the 1st petitioner and the respondent was solemnized on 04.06.1993 and it was a love marriage, thereafter, both the family members accepted their marriage and the respondent lived along with the 1st petitioner's Matrimonial home. During the year 2010, due to matrimonial disputes, the respondent left the Matrimonial home and she had gone along with his son Naveen Kumar and daughter Nandhini, who are now aged about 23 and 24 respectively.

5.The learned counsel for the petitioners further submitted that during the Marriage of the daughter Nandhini, even in the invitation card the respondent avoided to print the name of the 1st petitioner or any of his family members and further, the petitioners' family were not allowed to attend the marriage.

6.The grievance of the petitioners is that she wanted a share in the 1st petitioner's family property. Taking advantage that the 1st petitioner, who is working in a State Express Transport Corporation is a Public Sector Undertaking, she filed the cases one after another to somehow exert pressure for settlement of the property. He further submitted that in the Maintenance case, the monthly maintenance of Rs.18,500/- (Rupees eighteen thousand five hundred only) has been ordered, against which a revision has been filed before the Sessions Court, Namakkal and the same is pending.

7.On going through the Domestic Incident Report, the admitted case of the respondent is that two years prior to 12.07.2013, the respondent along with her children voluntarily left the Matrimonial home stating that the in-laws were not treated her properly and they were not provided proper food to eat. The Protection Order sought by the respondent is only for monthly Maintenance and not for return of sridhana articles and share in the 1st petitioner's family property. It is further submitted by the learned counsel for the petitioners that the petitioner Nos.3 and 4 have been married and living separately and they have not shared the common household at any point of time with the respondent.

8.It is further seen from the complaint given by the respondent to the Protection Officer on 04.07.2013, the respondent had voluntarily left the Matrimonial home along with her children and living separately. The 1st petitioner had filed an H.M.O.P.No.87 of 2013, before the Subordinate Court, Namakkal for seeking divorce on the ground of cruelty. As a counter blast, the respondent had preferred a complaint and she had also filed a H.M.O.P.No.121 of 2013 seeking for restitution of conjugal rights. Further, the 1st petitioner need not seek any divorce from the respondent and he is willing to take her back to his home.

9.Considering the same, this Court feels that the continuation of the proceedings against these petitioners would amount to abuse of process of law. In view of the same, the proceedings in D.V.C.No.9 of 2013 on the file of the Judicial Magistrate Court No.II, Namakkal is hereby quashed.

10.Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

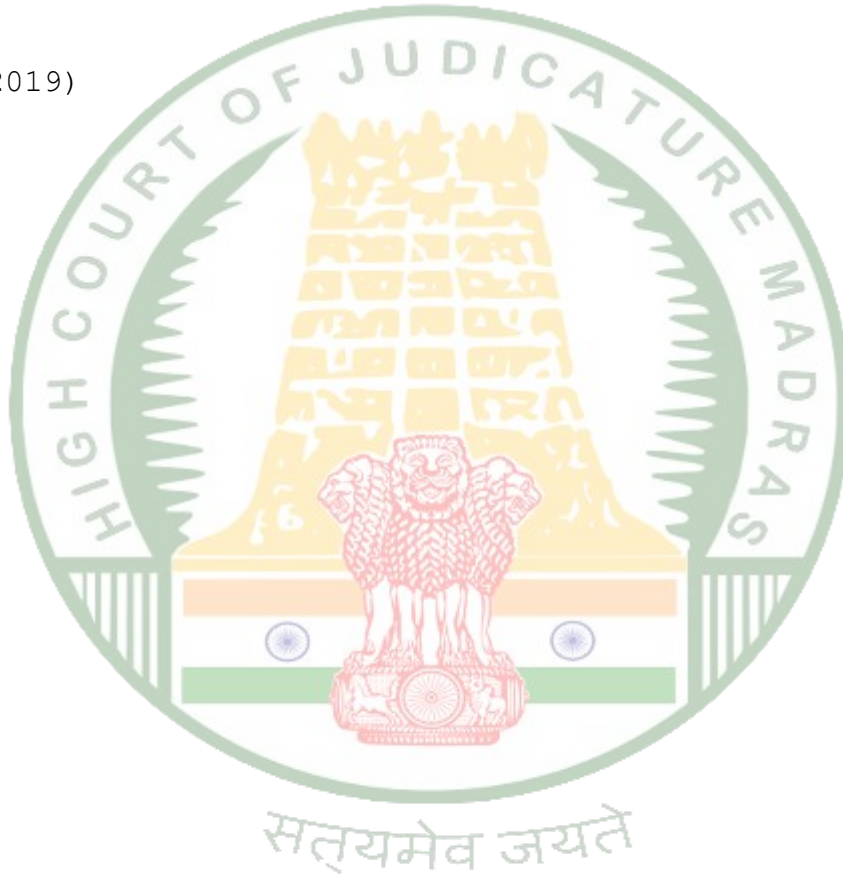
To

The Judicial Magistrate No.II,
Namakkal.

+1cc to Mr. C.D.Johnson, Advocate, S.R.No. 27585

Cr1.O.P.No.25863 of 2013

NRL (CO)
GN (06/05/2019)



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