

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2019

CORAM:

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

CRL.O.P.No.649 of 2019
and
CRL.M.P.No.390 of 2019

A.Chandran

... Petitioner

Vs.

S.Indhumathi

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in connection with D.V.A.No.74 of 2018 on the file of the Metropolitan Magistrate No.XVII, Saidapet, Chennai and quash the same.

For Petitioner : Mr.P.Kumaresan

For Respondent : M/s.R.Mahalakshmi

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.A.No.74 of 2018, filed by the respondent herein, pending on the file of the Metropolitan Magistrate No.XVII, Saidapet, Chennai.

2.The petitioner is father-in-law of the respondent and the marriage between Sasikumar and the respondent Viz.Indhumathi was solemnized on 15.10.2007. 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.A.No.74 of 2018 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai and implicated the petitioner as party to the petition and sought action as against him under Domestic Violence Act. The said D.V.A.No.74 of 2018 is pending for trial. At this stage, the petitioner herein who is father-in-law of the respondent prays to quash the proceedings in

D.V.A.No.74 of 2018.

3.Heard Mr.P.Kumaresan, learned counsel for the petitioner and M/s.R.Mahalakshmi, 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 petitioner herein is only father-in-law of the respondent and he is living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against this petitioner, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioner 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 this petitioner. In the absence of the same, the proceedings as against the petitioner cannot be maintained and consequently, the 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 D.V.A.No.74 of 2018, on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai, insofar as these petitioner is 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.A.No.74 of 2018, on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai, 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 husband of the respondent is concerned, since the impugned proceedings in D.V.A.No.74 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 six 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 stands allowed. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To
The XVII Metropolitan Magistrate,
Saidapet, Chennai.

CRL.O.P.No.649 of 2019

Kak(25/04/2019)



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