

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2019

CORAM:

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

CRL.O.P.No.949 of 2019
and CRL.M.P.No.628 of 2019

1.S.Sambath Kumar

2.Palanisamy

...Petitioners

Vs.

S.Jayanthi

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records with respect of DVOP No.44 of 2018 on the file of Judicial Magistrate (Additional Mahila Court), Salem filed by the respondent and quash the same.

For Petitioners: Mr.R.Nalliyappan

For Respondent : No Appearance

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in DVOP.No.44 of 2018, filed by the respondent herein, pending on the file of the Judicial Magistrate (Additional Mahila Court), Salem.

2.The petitioners are in-laws of the respondent and the marriage between Al/Suresh Babu and the respondent Viz., Jayanthi was solemnized on 12.12.2010. 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 DVOP.No.44 of 2018 on the file of the Judicial Magistrate (Additional Mahila Court), Salem and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said DVOP.44 of 2018 is pending for trial. At this stage, the petitioners herein who are the in-laws of the respondent pray to quash the proceedings in DVOP.No.44 of 2018.

3. Heard Mr.R.Nalliyappan learned counsel for the petitioners.

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 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 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 these petitioners. In the absence of the same, the proceedings as against these petitioners cannot be maintained and consequently, the petitioners 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 DVOP.No.44 of 2018, on the file of the Judicial Magistrate (Additional Mahila Court), Salem, insofar as these petitioners 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) before 5th of every English Calendar month to the credit of DVOP.No.44 of 2018, on the file of the Judicial Magistrate (Additional Mahila Court), Salem, 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 DVOP.No.44 of 2018 is pending, 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 stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

at/raja

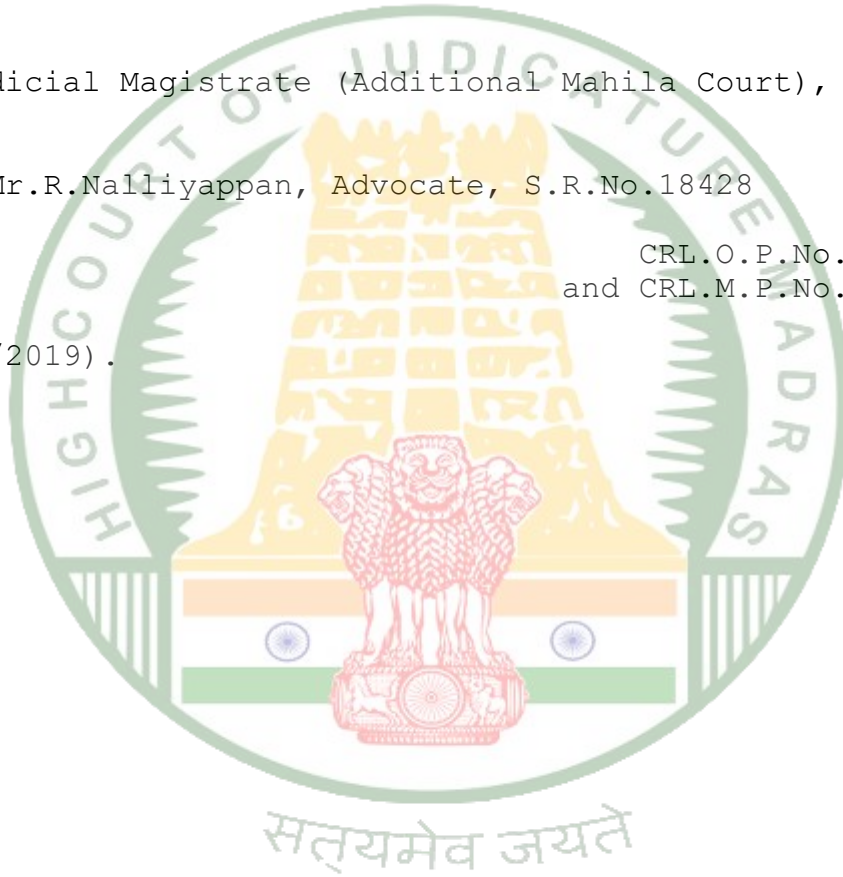
To

1. The Judicial Magistrate (Additional Mahila Court),
Salem.

+1 cc to Mr.R.Nalliyappan, Advocate, S.R.No.18428

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PM(CO)
SSM(22/03/2019).



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