

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.32262 of 2013 and
M.P.No.1 of 2013

1. K.Kalaiselvi
2. K.Vijayalakshmi Petitioners/2 &3 Respondents
Vs.

A.S.Sree Nandhini Respondent/Petitioner

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to D.V.A.No.13 of 2013 on the file of the learned Judicial Magistrate - III, Coimbatore and quash the same.

For Petitioners: Mr.V.T.Narendran for
M/s.Mukund R.Pandiyan

For Respondent : M/s.I.Abrar Md. Abdullah
- No Appearance

ORDER

The respondent herein filed a complaint before the learned Judicial Magistrate No.III, Coimbatore, under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (43 of 2005) r/w Section 200 of Cr.P.C. against the petitioners herein and 7 others. The learned Magistrate taken cognizance on the complaint and issued summons to the respondents 1 to 3 therein. Pending the above case, respondents 2 & 3 therein have approached this Court invoking Section 482 of Cr.P.C seeking to quash the above case against them.

2 The learned counsel appearing for the petitioners would submit that there is no evidence to show that these petitioners have committed offence under Domestic Violence Act and they are only in-laws of the respondent herein. In fact, subsequent to this case, the husband has filed a petition seeking divorce, which was also allowed in his favour and the marriage was dissolved and as on date there is no relationship

between the respondent and her husband. The respondent also filed a maintenance case, wherein settlement talking is going on and it would reach amicable settlement. In the domestic violence case, there is no relief sought for against these petitioners. The learned Magistrate, before taking cognizance of the complaint, should have called for report of the Protection Officer and in this case the respondent has not filed any complaint before the Protection Officer and since she has filed the complaint directly before the Magistrate, the Magistrate before summoning the petitioners, ought to have find out whether there is any domestic violence or not. The learned counsel would further contend that the Hon'ble Supreme Court also made it clear that when there is possibility of settlement between the parties, the Court should encourage the same. In this case, the husband is ready to make payment for a considerable amount and if the maintenance case reaches the amicable settlement, the present domestic violence case would come to an end. To support his contention, the learned counsel has placed reliance on the decision rendered by Madurai Bench of this Court in CrI.RC.(MD) No.453 of 2014 in the case of B.Prakash vs. Deepa and another.

3 Heard the learned counsel appearing for the petitioners and perused the materials available on record. None appeared on behalf of the respondent.

4 This Court has carefully gone through the complaint filed by the respondent. Prima facie there is allegations against these petitioners also. Even though, as contended by the learned counsel for the petitioners that most of the reliefs are sought for against the respondent's husband only, but, some of the reliefs are against these petitioners. As per Section 12 of the Domestic Violence Act, after receiving the complaint, the Magistrate should have called for report from the Protection Officer to ascertain the fact that whether there is any domestic violence made out. In the present case, soon after receiving the summons, the petitioners rushed to this Court and got an order of stay stalling the procedures of the domestic violence case and hence there is no possibility for the Magistrate to call for the report from the Protection Officer. Further, since prima facie there is allegations against these petitioner, this court is not inclined to invoke power under Section 482 of Cr.P.C.

5 In the result, the criminal original petition stands dismissed. Consequently connected miscellaneous petition is closed. The learned Judicial Magistrate No.III, Coimbatore, is directed to call for report from the Protection Officer and thereafter proceed with the domestic violence case in accordance with law. Further, since the petitioners are residing in Chennai and the domestic violence case is pending in Coimbatore, the personal appearance of the petitioners

herein before the Court below is dispensed with and they are directed to appear before the learned Magistrate as and when required.

Sd/-
Assistant Registrar (CS-VI)

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Sub Assistant Registrar

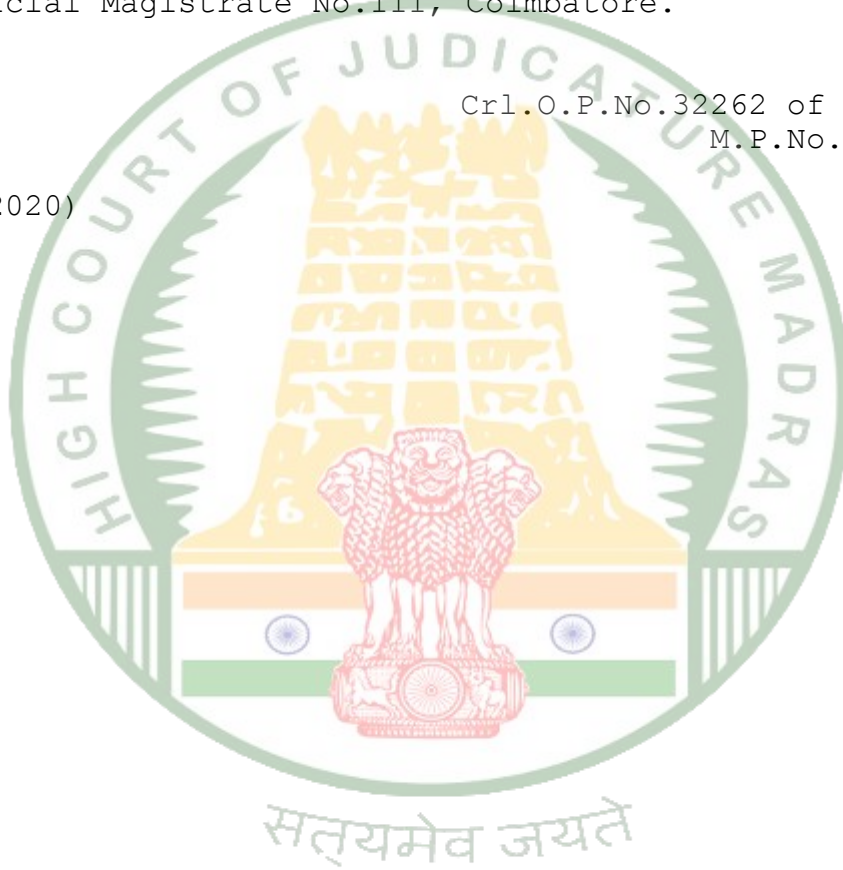
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To

1.The Judicial Magistrate No.III, Coimbatore.

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M.P.No.1 of 2013

CA (CO)
CB (05/02/2020)



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