

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.32511 of 2013  
and M.P.Nos.1 & 2 of 2013

1. Dr.R.Vilwanathan  
2. Pankajam  
3. Dr.Anan Kumar  
4. Subashini Priya  
5. Arun Kumar

... Petitioners

Vs.

Shobana

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records and quash the complaint in C.C.No.7224 of 2013 on the file of the learned X Metropolitan Magistrate, Egmore, Chennai.

For Petitioners: Mr.T.Sundarajan

For Respondent : Mr.Ilayaperumal

ORDER

This petition has been filed to call for the records pertaining to C.C.No.7224 of 2013 pending on the file of the learned X Metropolitan Magistrate, Egmore, Chennai, thereby taken cognizance for the offences under Sections 12 of the Domestic Violence Act.

2. Heard Mr.T.Sundarajan, learned counsel for the petitioners and Mr.A.Ilaya Perumal, learned counsel appearing for the respondent.

3. It is seen from the records that the respondent herein filed a petition under Domestic Violence Act in C.C.No.7224 of 2013 on the file of the learned X Metropolitan Magistrate, Egmore, Chennai alleging that the first petitioner is her husband and the marriage between them was solemnized on 17.10.1969. Out of their

wedlock two children were born and without her knowledge the first petitioner married the second petitioner and gave birth three children. It is also alleged that the first petitioner refused to maintain her and threatened her with dire consequences. Therefore, the respondent lodged a complaint implicating the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said case in C.C.No.7224 of 2013 is pending for trial. At this stage, the petitioners herein pray to quash the proceedings in C.C.No.7224 of 2013.

4. It is seen that the marriage between the first petitioner and the second petitioner was solemnized on 04.03.1969 and due to their wedlock they gave birth to three children. Therefore before marrying the respondent, the first respondent married the second petitioner. Moreover, the respondent lodged the complaint only in the year 2013 and no reason has been stated in the complaint for the delay in lodging the complaint. The protection order sought for by the respondent herein in the domestic violence case against these petitioners, 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 domestic violence as defined under Domestic Violence Act against petitioners. In the absence of the same, the proceedings as against petitioners cannot be maintained and consequently, petitioners need not undergo the ordeal of facing a criminal trial.

5. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rts

To

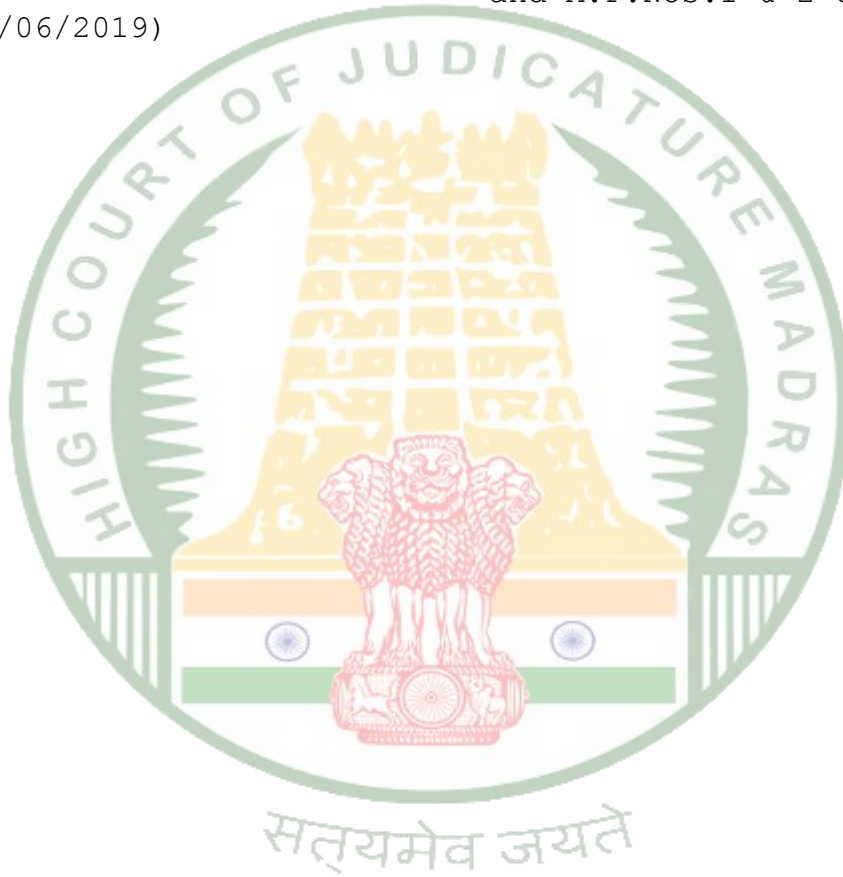
The Metropolitan Magistrate ,  
X Metropolitan Magistrate Court,  
Egmore, Chennai

+1cc to Mr. Ilayaperumal, Advocate SR.No. 35502

+1cc to Mr.T.Sundarajan , Advocate SR.No. 35935

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A.SK(24/06/2019)



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