

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2019

CORAM:

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

CRL.O.P.No.3036 of 2018
and CRL.M.P.Nos.8253 & 1279 of 2018

1.S.Saravanabava
2.S.Dhatchayani

... Petitioners

Vs.

S.Revathi

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the complaint in D.V.C.No.12 of 2016 on the file of the Judicial Magistrate No.I, Vellore, Vellore District and quash the same.

For Petitioners: M/s. V.Anthony Elangovan Raj

For Respondent : Mr.E.Kannadasan

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.12 of 2016, filed by the respondent herein, pending on the file of the learned Judicial Magistrate No.I, Vellore, Vellore District.

2. The first petitioner is husband of the respondent and the second petitioner is mother-in-law of the respondent and the marriage between A1/S.Saravanabava and the respondent Viz.,S.Revathi was solemnized on 16.05.2011. Thereafter, due to matrimonial disputes the respondent and her husband were living separately. Under this circumstance, the respondent herein filed a petition under Domestic Violence Act in D.V.C.No.12 of 2016 on the file of the Judicial Magistrate No.I, Vellore, Vellore District and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.12 of 2016 is pending for trial. At this stage, the petitioners herein who are the husband and

mother-in-law of the respondent pray to quash the proceedings in D.V.C.No.12 of 2016.

3. Heard Mr.V.Anthony Elangovan Raj learned counsel for the petitioners and Mr.E.Kannadasan 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 second petitioner herein is only mother-in-law of the respondent and she is living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against the second petitioner/mother-in-law, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the second 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 the second petitioner. In the absence of the same, the proceedings as against the second petitioner cannot be maintained and consequently, the second 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.C.No.12 of 2016, on the file of the Judicial Magistrate No.I, Vellore, Vellore District, insofar as the first petitioner is 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 DVA.No.12 of 2016, on the file of the Judicial Magistrate Court No.I, Vellore, Vellore District, 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 DVA.No.12 of 2016 is pending from the year 2016 onwards, 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 petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mpa

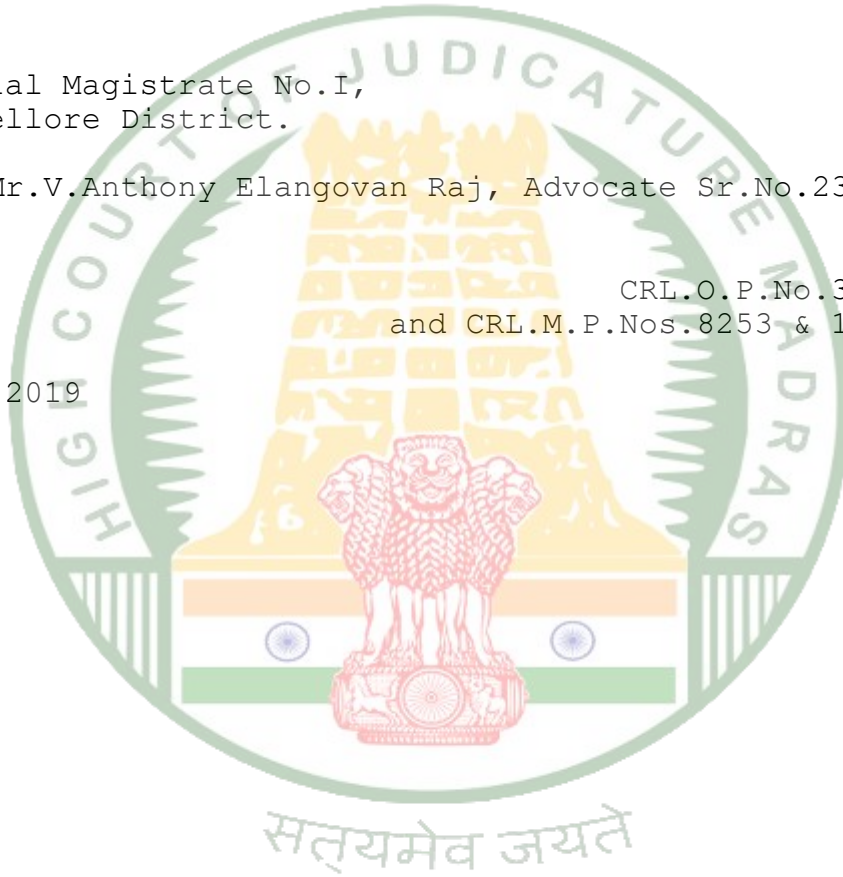
To

The Judicial Magistrate No.I,
Vellore,Vellore District.

+1 cc to Mr.V.Anthony Elangovan Raj, Advocate Sr.No.23030

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BR(CO)
CSL/23.04.2019



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