

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.3985 of 2019
and
Crl.M.P.Nos.2449 & 2454 of 2019

1.Gopal

2.Muthulakshmi

3.Sathish Petitioners

Vs.

Sharmila Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to complaint in D.V.C.No.56 of 2017 on the file of the Hon'ble XV Metropolitan Magistrate, George Town, Chennai and quash the same.

For Petitioners: Mr.R.Krishna Kumar

For Respondent : No appearance

ORDER

This petition has been filed to quash the proceedings in D.V.C.No.56 of 2017 on the file of the learned XV Metropolitan Magistrate, George Town, Chennai.

2.The petitioners are in-laws of the respondent and the marriage between A1/G.Harish and the respondent Viz.,Sharmila was solemnized on 23.11.2015. Thereafter, due to matrimonial disputes the respondent and her husband does not have mutual relationship. Under such circumstances, the respondent herein lodged a complaint before the All Women Police Station, M.K.B.Nagar, Chennai and a case was registered in Crime No.1177 of 2017. After investigation, the respondent Police have filed a final report before the XV Metropolitan Magistrate, George Town, Chennai against the petitioners and their son/A1 for the alleged offence under Section 12 of D.V. Act and the same was taken on

file in D.V.C.56 of 2017. The respondent has implicated the petitioners and her husband as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.A.No.56 of 2017 is pending for trial. It is also seen that A1/husband has also filed a divorce petition in O.P.No.3341 of 2017 before the Principal Family Judge, Chennai and the same is pending. At this stage, the petitioners herein, who are the in-laws of the respondent pray to quash the proceedings in D.V.A.No.56 of 2017.

3. Heard Mr.R.Krishna Kumar, learned counsel for the petitioners. Though notice served, none appeared on behalf of 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 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 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 view of the above, this Court is inclined to quash the proceedings in DVA.No.56 of 2017, on the file of the learned XV Metropolitan Magistrate, George Town, Chennai, insofar as these petitioners are allowed, 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) per month on or before 5th of every English Calendar month to the credit of DVA.No.56 of 2017, on the file of the learned XV Metropolitan Magistrate, George Town, Chennai, as ad-interim maintenance, starting from April 2019 onwards, 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 DVA.No.56 of 2017 is pending from the year 2017 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 (CS-IV)

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Sub Assistant Registrar

Rm

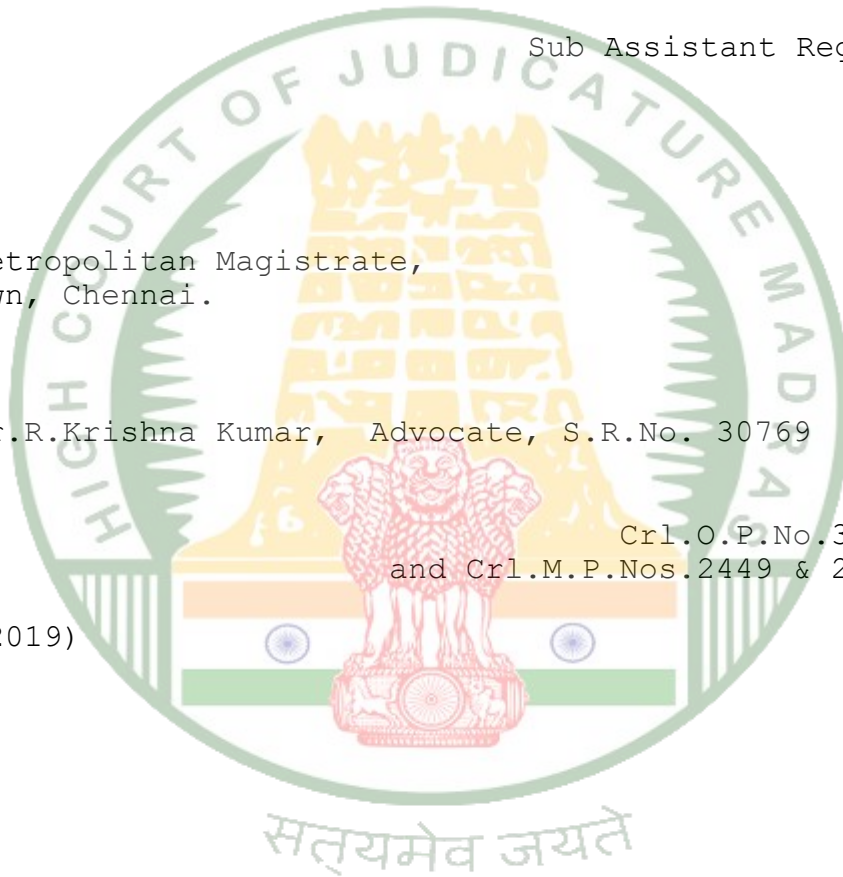
To

The XV Metropolitan Magistrate,
George Town, Chennai.

+1cc to Mr.R.Krishna Kumar, Advocate, S.R.No. 30769

KS (CO)
GN(22/05/2019)

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