

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2019

CORAM:

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

CRL.O.P.Nos.2443 & 965 of 2019 and
CRL.M.P.Nos.1611 & 642 of 2019

1.Nadira Nilopher

2.Mohamed Zain Us ZamanPetitioners in
Crl.O.P.No.2443 of 2019

3.Dr.Tanveer AhamedPetitioner in
Crl.O.P.No.965 of 2019

Vs.

Mrs.Fahmida KouserRespondent in
both Crl.OP's

COMMON PRAYER: Criminal Original Petitions filed under
Section 482 of Cr.P.C,. to call for the records in D.V.C No.109
of 2018, Additional Mahila Court at Allikulam, Chennai pending
against the petitioners.

In Both Crl.OP's

For Petitioners : Mr.V.Karnan

For Respondent : Mr.MD.Ashfaq Rafi

COMMON ORDER

These Criminal Original Petitions have been filed to quash
the proceedings in D.V.C.No.109 of 2018, pending on the file of
the Additional Mahila Court at Allikulam, Chennai.

2.The petitioners are in-laws of the respondent and the
marriage between Taufeeq Ahmed and the respondent Viz.,Fahmida
Kouser was solemnized on 15.03.2013. Thereafter, due to
matrimonial disputes the respondent and her husband/Tanfeeq
Ahmed were living separately from the matrimonial home. Under
this circumstance, the respondent herein filed a petition under
Domestic Violence Act in D.V.C.No.109 of 2018 on the file of the
Additional Mahila Court at Allikulam, Chennai 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.109 of 2018 is pending for trial. At this stage, the petitioners herein pray to quash the proceedings in D.V.C.No.109 of 2018.

3.Heard Mr.V.Karnan, learned counsel for the petitioners and Mr.MD.Ashfaq Rafi, 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 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, 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 the 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 D.V.C.No.109 of 2018, on the file of the Additional Mahila Court at Allikulam, Chennai, insofar as these petitioners are concerned, on condition that, they shall ensure that the 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 D.V.C.No.109 of 2018, on the file of the Additional Mahila Court at Allikulam, Chennai, 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 D.V.C.No.109 of 2018 is pending from the year 2018 onwards, it would be appropriate to direct the trial Court to complete the trial within a period of six months from the date of receipt of copy of this order. The 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, these Criminal Original Petitions stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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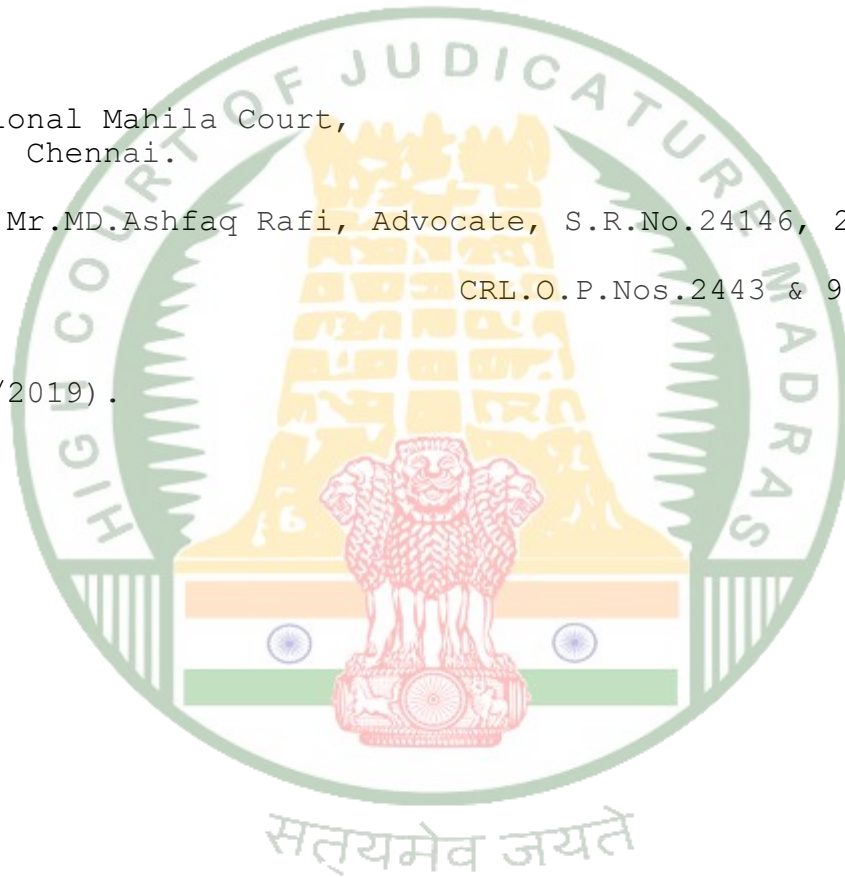
To

The Additional Mahila Court,
Allikulam, Chennai.

+2 ccs to Mr.MD.Ashfaq Rafi, Advocate, S.R.No.24146, 24147

CRL.O.P.Nos.2443 & 965 of 2019

AK(CO)
SSM(12/04/2019) .



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