

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.Nos.9166 of 2018 & 19770 of 2017
& Crl.M.P.Nos.4733 & 4734 of 2018 and 11926 of 2017

M.Karthikeyan ... Petitioner in
Crl.O.P.No.9166 of 2018

M.Chandra ... Petitioner in
Crl.O.P.No.19770 of 2017

Vs.

L.Subha ... Respondent in both Crl.O.Ps

COMMON PRAYER: These Criminal Original Petitions filed under Section 482 Cr.P.C. praying to call for the records and quash the D.V.C.No.359 of 2017 pending on the file of the learned Metropolitan Magistrate Additional Maheela Court, Allikulam, Chennai.

For Petitioners in
Both Crl.O.Ps : Mr.B.Thirumalai

COMMON ORDER

These petitions have been filed to call for the records pertaining to D.V.A.No.359 of 2017 pending on the file of the learned Metropolitan Magistrate Additional Maheela Court, Allikulam, Chennai and quash the same as illegal, incompetent and without jurisdiction by allowing the present criminal original petition.

2.The petitioner in Crl.O.P.No. 19770 of 2017 is the Mother-in-law of the respondent and the marriage between Al/M.Karthikeyan and the respondent Viz.,L.Subha was solemnized on 17.09.2015. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home. Under this circumstance, the respondent herein filed a petition under Domestic Violence Act in D.V.A. No.359 of 2017 on the file of the learned Metropolitan Magistrate Additional Maheela Court, Allikulam, Chennai and 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.359 of 2017 is pending for trial. At this stage, the petitioner herein who is the Mother-in-law of the respondent prays to quash the proceedings in D.V.A.No.359 of 2017.

3. Heard Mr.B.Thirumalai learned counsel for the petitioners.

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 petitioner herein is only a 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 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 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 petitioner. In the absence of the same, the proceedings as against petitioner cannot be maintained and consequently, 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 DVA.No.359 of 2017, on the file of the learned Metropolitan Magistrate Additional Maheela Court, Allikulam, Chennai, insofar as petitioner is allowed, on condition that, she shall ensure that the Al/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.359 of 2017, on the file of the learned Metropolitan Magistrate Additional Maheela Court, 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 the petitioner in Crl.O.P.No.9166 of 2018 Al/husband of the respondent is concerned, since the impugned proceedings in DVA.No.359 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. Al/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, the petition in CrI.O.P.No.9166 of 2018 stands dismissed and CrI.O.P.No.19770 of 2017 stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsn/kas

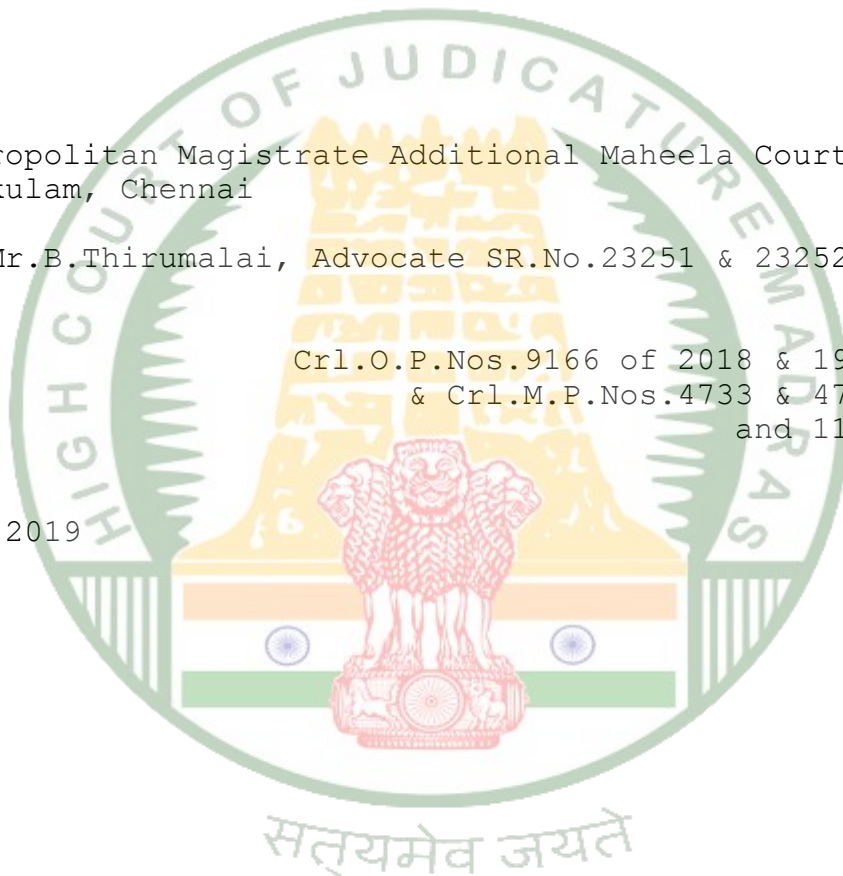
To

1.The Metropolitan Magistrate Additional Maheela Court,
Allikulam, Chennai

+1 cc to Mr.B.Thirumalai, Advocate SR.No.23251 & 23252

CrI.O.P.Nos.9166 of 2018 & 19770 of 2017
& CrI.M.P.Nos.4733 & 4734 of 2018
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BS (CO)
CSL/09.04.2019



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