

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2019

CORAM:

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

CRL.O.P.Nos.3405 and 9267 of 2018
and CRL.M.P.Nos.9533, 9534 & 1495 and 9527 & 4374 of 2018

1.Manimaran
2.Nagarathinam

... Petitioners
in Crl.O.P.No.3405/2018

1.Nagaraj
2.Devi

..... Petitioners
in Crl.O.P.No.9267/2018

Vs.

K.Divya

..... Respondent
in both Crl.O.Ps.

Common Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C, to call for the records pertaining to D.V.A.No.18 of 2017 pending on the file of the Judicial Magistrate Court No.I, Tirupur and quash the same.

(in both Crl.O.Ps.)

For Petitioners : Mr.K.S.Karthik Raja

For Respondent : Mr.Durai Singam

सत्यमेव जयते
O R D E R

These Criminal Original Petitions have been filed seeking to quash the D.V.C.No.18 of 2017, filed by the respondent in C.C.No.319 of 2017.

2.The marriage between A1/Nagavel and the respondent Viz.,Divya was solemnized on 05.09.2016. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home. Thereafter, due to understanding between them, the husband of the respondent filed a complaint on 02.08.2017, before the learned Judicial Magistrate, Nilakottai, which was taken on file in C.C.No.319 of 2017 and the respondent herein had given an undertaking to the

Social Welfare Officer that she is willing to reconcile her husband. Under these circumstances, the respondent herein filed a petition under Domestic Violence Act and implicated her father-in-law, mother-in-law, brother-in-law and his wife as parties to the petitioner and seek action against them under Domestic Violence Act. The said D.V.A. No.18 of 2017 on the file of the Judicial Magistrate No.1, Tiruppur is pending for trial. At this stage, the petitioners herein who are in-laws of the respondent prays to quash the proceedings in D.V.A.No.18 of 2017.

3. Heard the learned counsel for the petitioners and the learned counsel appearing for the respondent.

4. It is seen that the relief sought for in the domestic violence case with regard to residential rights, compensation can be made and claimed against her husband, who is already a party in that case. The petitioners herein were only the in-laws of the respondent and they were 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 these petitioners. In the absence of the same, the proceedings against these petitioners cannot be maintained and consequently, the petitioners need not undergo the ordeal of facing a criminal trial.

5. In the result, these Criminal Original Petitions stand allowed. Consequently, the proceedings in DVA.No.18 of 2017, on the file of the Judicial Magistrate Court No.1, Tiruppur, insofar as these petitioners are concerned, is quashed. Connected miscellaneous petitions are also closed.

6. Since the impugned proceedings in DVA.No.18 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 six months from the date of receipt of copy of this order. However, the A1/husband is directed to appear before the trial Court on the next hearing date, failing which the defacto complainant is at liberty to approach this Court.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rm

To

1.The Judicial Magistrate No.I,
Tiruppur.

2.The Public Prosecutor,
High Court, Madras.

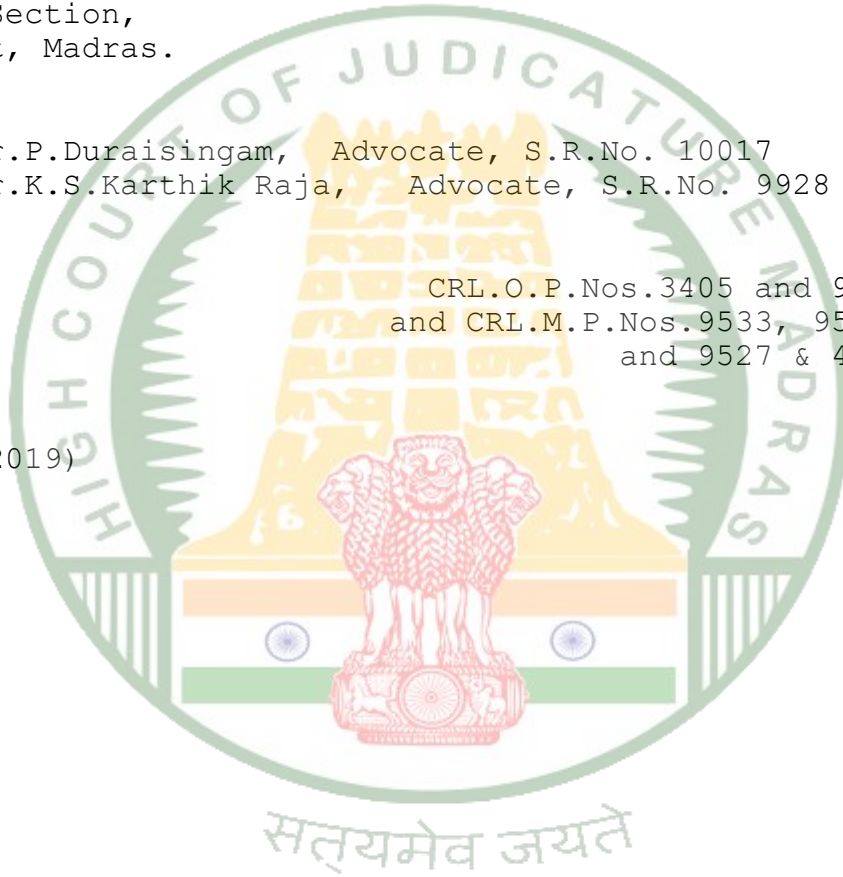
Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.P.Duraisingam, Advocate, S.R.No. 10017
+1cc to Mr.K.S.Karthik Raja, Advocate, S.R.No. 9928

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SSV(CO)
GN(07/03/2019)



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