

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 01.04.2019
CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.3479 of 2019
and
Crl.M.P.No.2235 of 2019

1.Mr.G.Velumany

2.Mrs.Kirubavathi

3.Mrs.Ambujam Petitioners

[Crl.O.P. was dismissed as far as first petitioner is concerned as per the order in Crl.O.P.No.3479 of 2019 dated 11.02.2019]

Vs.

P.R.Thamarai Selvi Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the Domestic Violence case in D.V.C.No.64 of 2018 on the file of the IX Metropolitan Magistrate Court, Saidapet, Chennai - 600 015 and quash the proceedings as illegal.

For Petitioners: Mr.P.Ayyamperumal

For Respondent : Mr.A.Edwin Prabakar

O R D E R

This Criminal Original Petition has been filed to call for the records relating to the Domestic Violence case in D.V.C.No.64 of 2018 on the file of the IX Metropolitan Magistrate Court, Saidapet, Chennai - 600 015 and quash the proceedings as illegal.

2.The case of the respondent is that the first petitioner is the husband of the respondent, second and third petitioners are the sister-in-laws' of the respondent. The elders of the petitioners and the respondent family arranged the marriage of

the first petitioner and the respondent and the marriage was solemnized on 13.09.1999 at Aruna Thirumana Mandapam, Chennai. In the third month of the marriage the respondent got conceived and in the initial days of the pregnancy the second and third petitioners tortured the respondent both physically and mentally, due to which she got pain in stomach and on consultation the doctor informed that foetus died in the womb. The first petitioner was well aware of the same but he never stopped the above harassment.

3.The respondent is working as Section Officer in Madras University and she spent her saving, salary and availed society loan for house construction in Gandhi Nagar, Ekkatuthangal. The second petitioner compelled the 1st petitioner and the respondent to adopt her son namely Gnanasekaran @ Srinath and to transfer the property in his name and when she opposed the same they harassed her verbally and instigated her husband to desert her by all means and besides her husband's sisters family were always staying in the matrimonial house and the whole night he did not allow her inside and finally the respondent went to her father's house. At the instigation of the second and third respondents the respondent could not join with the first petitioner. Finally on 01.08.2017 she lodged a complaint with the All Women Police Station, Guindy, which was registered vide C.S.R.No.303/2017, seeking to re-unite with her husband. Based on the assurance given by her husband the case was closed. When she went to the matrimonial home she was restrained from entering into the house. The first petitioner filed H.M.O.P.No.3370 of 2017 before the Family Court at Chennai seeking Divorce on the ground of cruelty. The above said divorce petition was filed at the instigation of the second and third petitioners. The respondent was under the impression that she could meet her husband in Court and solve the issue through mediation. But the first petitioner was accompanied with the second and third petitioners and because of their instigation and advice the counselling also failed. Hence, the respondent filed a domestic case in D.V.C.No.64 of 2018 on the file of the IX Metropolitan Magistrate, Saidapet, Chennai.

4.The learned counsel for the petitioners submitted that the allegations made in the complaint filed by the respondent are taken at their face value and accepted in their entirety do not constitute any offence against the petitioners. The first petitioner is a Central Government working in Passport Office at Coimbatore and the second and third petitioners are residing at different location in Chennai and merely because these petitioners are sisters of the respondent's husband they have been implicated in the Domestic Violence case in D.V.C.No.64 of 2018 in order to harass the petitioners and to make them run

pillar to post. Hence, they prayed for quashing of the proceedings in D.V.C.No.64 of 2018.

5.Heard Mr.P.Ayyamperumal, learned counsel for the petitioners and Mr.A.Edwin Prabakar, learned counsel for the respondent.

6.It is seen that the relief sought for by the respondent in the domestic violence case under Section 18, 19, 20, 21 and 22 of the Protection of Women from Domestic Violence Act 2005. The petitioners herein are the husband and sister-in-laws of the respondent. The second and third petitioners are living separately. 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 the second and third petitioners cannot be maintained and consequently, the second and third petitioners need not undergo the ordeal of facing a criminal trial.

7.Insofar as the first petitioner i.e. the husband of the respondent is concerned this Criminal Original Petition stands dismissed, since the impugned proceedings in D.V.C.No.64 of 2018 is pending, 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. The first petitioner is directed to appear before the Trial Court on the next hearing date, failing which, the respondent is at liberty to approach this Court. With regard to the second and third petitioners, this Criminal Original Petition stands allowed and the proceedings as against them in D.V.C.No.64 of 2018 is quashed.

8.In the result, this Criminal Original Petition stands partly allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

1.The IX Metropolitan Magistrate,
Saidapet,
Chennai - 600 015.

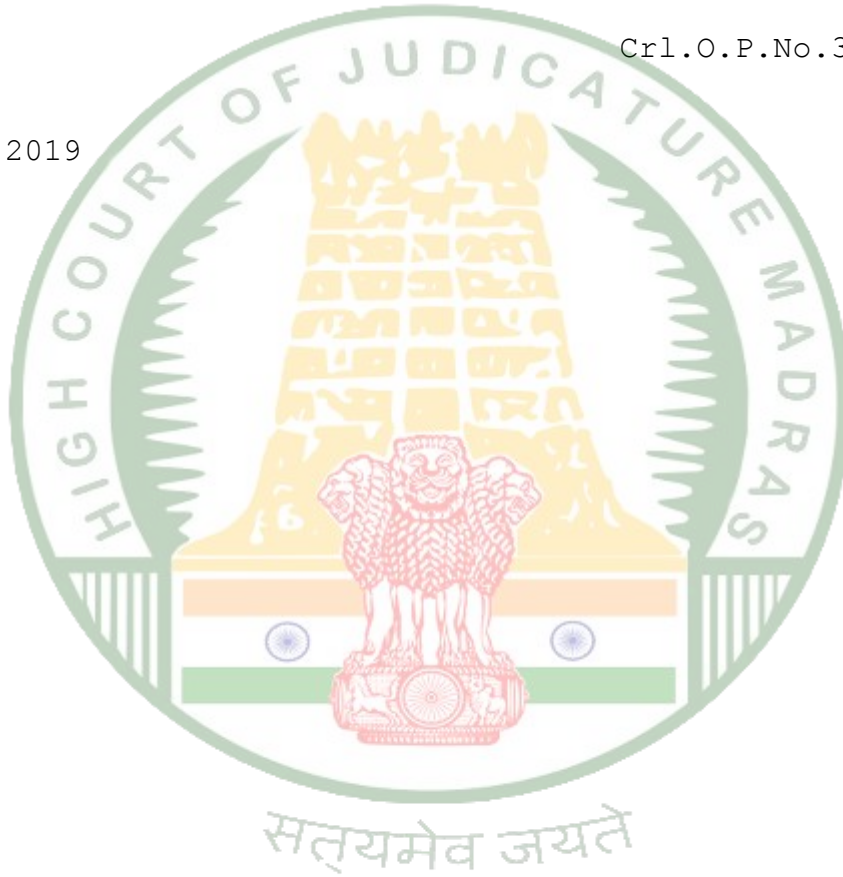
2.The Chief Metropolitan Magistrate,
Egmore, Chennai 8.

+1 cc to Mr.A.Edwin Prabakar, Advocate, Sr.No. 31344

+1 cc to Mr.P.Ayyam Perumal, Advocate Sr.No.31258

Cr1.O.P.No.3479 of 2019

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