

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2019

CORAM:

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

CRL.O.P.No.2805 of 2019
and CRL.M.P.Nos.1825 of 2019

1.G.Haridass

2.H.Seethalakshmi

3.H.Kirubhakaran

[1st Petitioner is dismissed
as per order dated 01/2/2019
and made in Crl.O.P.No.2805 of 2019
and Crl.M.P.no.1825 & 1827 of 2019]

.... Petitioners

Vs.

G.Monika

...Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in D.V.A.No.31 of 2018 pending on the file of the Judicial Magistrate No.VII at Coimbatore and quash the same.

For Petitioners: M/s K.Myilsamy

For Respondent : No Appearance

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.A.No.31 of 2018, filed by the petitioner/wife therein, pending on the file of the Judicial Magistrate No.VII at Coimbatore.

2. The petitioners are in-laws of the respondent and the marriage between petitioner wife and the 1st respondent was solemnized on 29.05.2017. Thereafter, due to matrimonial disputes the petitioner and her husband were living separately from the matrimonial home. Under these circumstances, the respondent herein filed a petition under Domestic Violence Act in D.V.A.No.31 of 2018 on the file of the Judicial Magistrate No.VII, Coimbatore and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.A.31 of 2018 is pending for trial.

At this stage, the petitioners herein who are the in-laws of the respondent pray to quash the proceedings in D.V.A.No.31 of 2018.

3. Heard M/s.K.Myilsamy, learned counsel for the petitioner and notice has been served on the respondent wife despite none appeared on behalf of the respondent.

4. It is seen that the relief sought for by the petitioner 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 these petitioners. In the absence of the same, the proceedings as against these 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 DVA.No.31 of 2018 against the 2nd and 3rd petitioners and dismissed against the 1st petitioner, on the file of the Judicial Magistrate No.VII, Coimbatore, 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 DVA.No.31 of 2018, on the file of the Judicial Magistrate No.VII, Coimbatore, 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 DVA.No.31 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 three 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, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

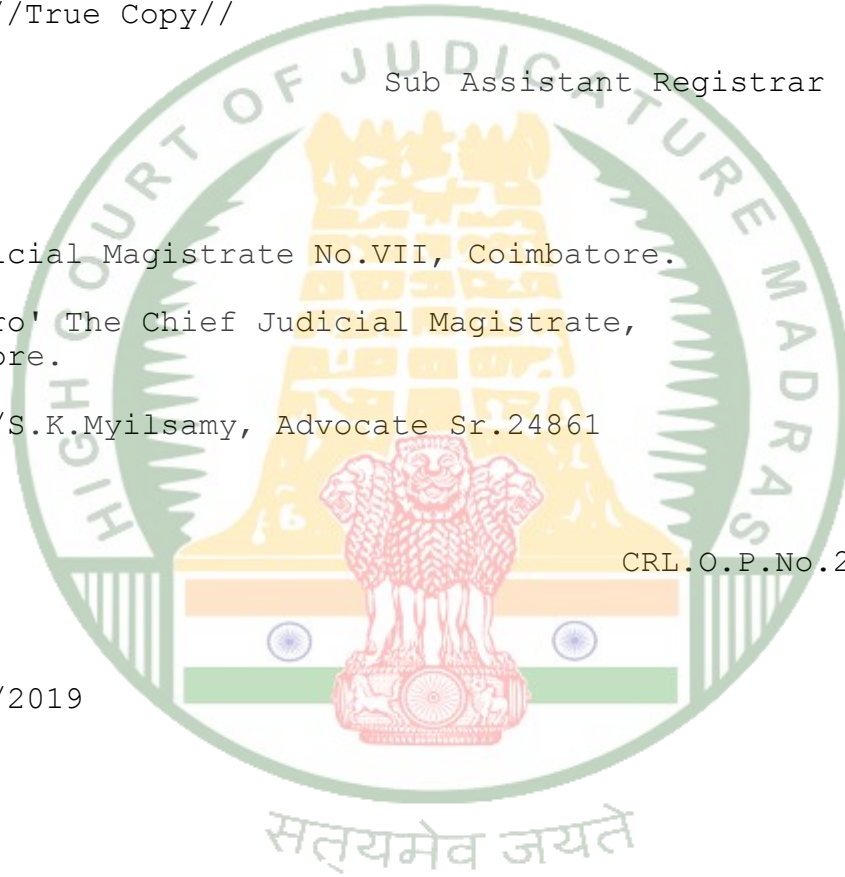
1.The Judicial Magistrate No.VII, Coimbatore.

2.-do- Thro' The Chief Judicial Magistrate,
Coimbatore.

+1cc to M/S.K.Myilsamy, Advocate Sr.24861

CRL.O.P.No.2805 of 2019

vp[co]
srg 22/04/2019



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