

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 15.04.2019
CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.7804 of 2018
and Crl.M.P.Nos. 4022 & 4023 of 2018
and Crl.M.P.No.62 of 2019

S.Sagunthala ...Petitioner
Vs

D.Kavitha Respondent

Prayer :- Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in D.V.A.12 of 2017 pending on the file of Judicial Magistrate No.I, Poonamallee, Thiruvallur District and quash the same.

For Petitioner : Mr.S.Suresh

For Respondent : Mr.U.Karunakaran

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.A.No.12 of 2017, filed by the respondent, on the file of the learned Judicial Magistrate No.I, Poonamallee, Thiruvallur District.

2.The petitioner is the mother-in-law of the respondent herein. The marriage between one Dilip Kumar and the respondent was solemnized on 15.11.2015. Out of their wedlock, they were blessed with one child in the year 2016. While so, it is alleged that the petitioner along with Al/husabnd said to have harassed the respondent and driven her from the matrimonial home along with her child. Hence, she filed a petition before the Protection Officer for protection order, residential rights, compensation and maintenance and to take action as against her husband and her in-laws under Domestic Violence Act. After conducting enquiry, the protection officer filed a report before the learned Judicial Magistrate No.I, Poonamallee and the same was taken on file in D.V.A.No.12 of 2017 and the same is pending for trial. At this stage, the petitioner herein who is the monther-in-law of the respondent prays to quash the proceedings in D.V.A.No.12 of 2017.

3.Heard Mr.S.Suresh, learned counsel appearing for the petitioner and Mr.U.Karunakaran, 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 petitioner herein is only the mother-in-law of the respondent. As such, the protection order sought for by the respondent herein in the domestic violence case against this petitioners/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 this petitioner. In the absence of the same, the proceedings as against this petitioner cannot be maintained and consequently, the 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 D.V.A.No.12 of 2017, on the file of the learned Judicial Magistrate No.I, Poonamallee, Thiruvallur District, insofar as this petitioner is concerned, on condition that, she shall ensure that A1/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 D.V.A.No.12 of 2017, on the file of the learned Judicial Magistrate No.I, Poonamallee, Thiruvallur District, 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 A1/husband of the respondent is concerned, since the impugned proceedings in D.V.A.No.12 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. The husband of the respondent viz., Dilip Kumar, 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(J)

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Sub Assistant Registrar

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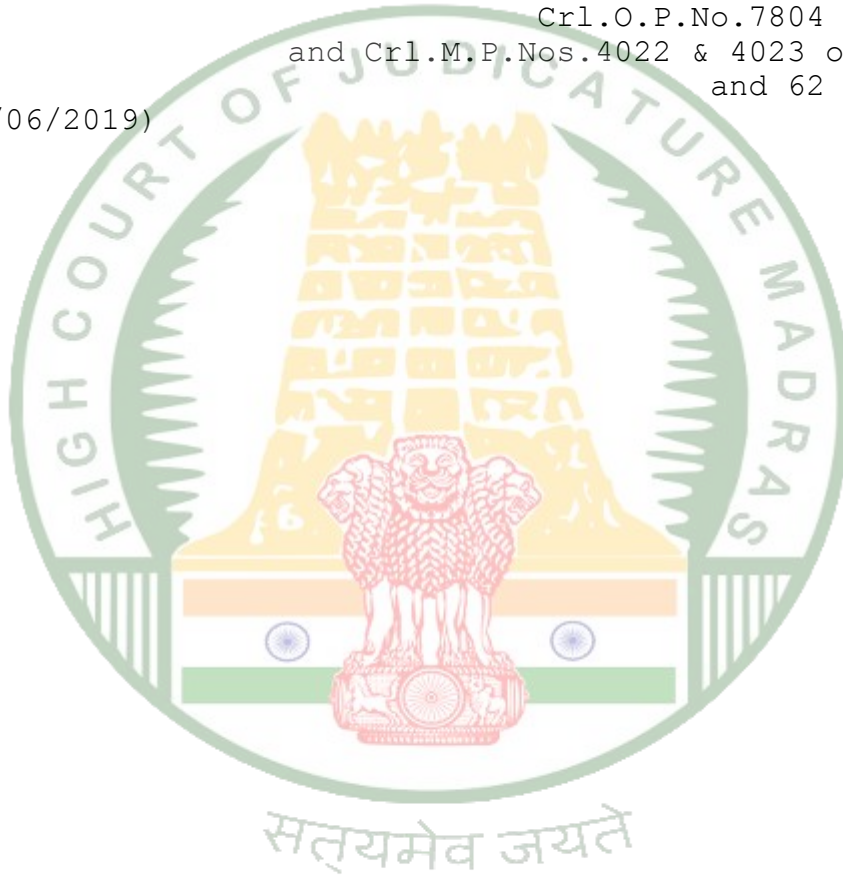
To

1.The Judicial Magistrate No.I,
Poonamalee,
Thiruvallur District.

2.The Public Prosecutor,
High Court, Madras.

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A.SK(10/06/2019)



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