

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.03.2019

CORAM:
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.12045 of 2018 and
Crl.M.P.Nos.6372 & 6373 of 2018

1.Rabiyullah
2.Adbul Hameed
3.Jainabi

... Petitioners/Accused

Vs.

Najma

...Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the D.V.C.No.2 of 2018 on the file of the Judicial Magistrate, Polur, Tiruvannamalai quash the same by allowing this Criminal Original Petition.

For Petitioners: Mr.M.Arunachalam

For Respondent : Mr.B.Jawahar

ORDER

This Criminal Original Petition has been filed to call for the entire records relating to the complaint in D.V.C.No.2 of 2018 on the file of the Judicial Magistrate, Polur, Tiruvannamalai and quash the same.

2.The 1st petitioner is husband and the 2nd and 3rd petitioner are in-laws of the respondent and the marriage between Al/Rabiyullah and the respondent Viz.,Najma was solemnized on 31.01.2016. 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.C.No.2 of 2018 on the file of the Judicial Magistrate, Polur, Tiruvannamalai and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.2 of 2018 is pending for trial. At this stage, the petitioners herein who are the husband and the in-laws of the respondent pray to quash the proceedings in D.V.C.No.2 of 2018.

3.Heard Mr.M.Arunachalam, learned counsel for the petitioners and Mr.B.Jawahar, the 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 petitioners 2 & 3 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 2 & 3/ in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 2 & 3 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 2 & 3. In the absence of the same, the proceedings as against these petitioners 2 & 3 cannot be maintained and consequently, the petitioners 2 & 3 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.C.No.2 of 2018, on the file of the Judicial Magistrate, Polur, Tiruvannamalai insofar as petitioners 2 & 3 are concerned, on condition that, they shall ensure that the 1st petitioner/husband of the respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) per month before 5th of every English Calendar month to the credit of D.V.C.No.2 of 2018, on the file of the learned Judicial Magistrate, Polur, Tiruvannamalai, 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 A1/husband of the respondent is concerned dismissed and since the impugned proceedings in D.V.C.No.2 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. 1st petitioner/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 partly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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To

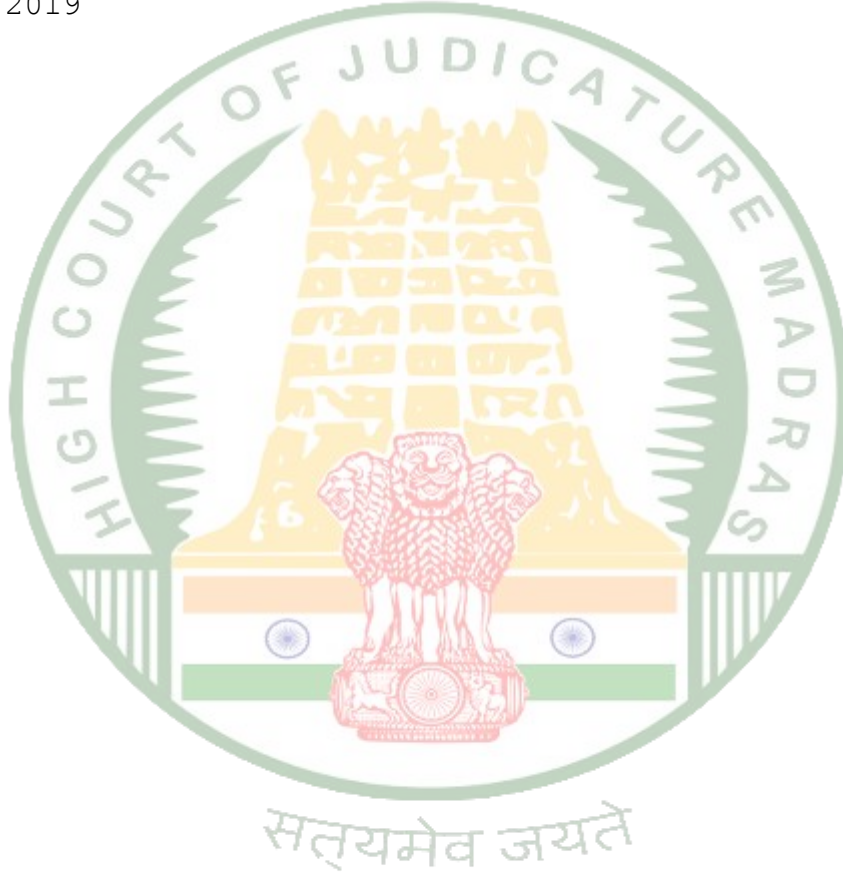
The Judicial Magistrate,
Polur, Tiruvannamalai

+1cc to Mr.M.Arunachalam, Advocate, S.R.No.19900

CrI.O.P.No.12045 of 2018

VGII(CO)

rrs 26/03/2019



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