

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.Nos.698 & 718 of 2013
and Crl.O.P.No.18292 of 2013

1. P.Janikaraman

2. K.Krishnan

3. Rameshwari ... Petitioners
in all cases/Respondents 2 to 4

Vs.

1. Lakshmi

2. P.Vanitha ... Respondents 1 & 2/Petitioners/Complainants

3. K.Palanisamy ... 3rd Respondent in Crl.RC.No.698 & 718 and
Crl.Op.No.18292/13

4. Rajinikanth,
Inspector of Police,
Kannankurichi Police Station,
Salem.

5. Nepolean,
Sub-Inspector of Police,
Kannankurichi Police Station,
Salem. ... 4 & 5 Respondents
in Crl.R.C.No.718 of 2013

Prayer in Crl.R.C.No.698 of 2013: Criminal Revision filed under
Section 397 r/w 401 Cr.P.C., to set aside the order dated
17.05.2013 passed in C.M.P.No.592 of 2013 in D.V.O.P.No.106 of
2013 on the file of the Judicial Magistrate Court (Additional
Mahila Court), Salem.

Prayer in Crl.R.C.No.718 of 2013: Criminal Revision filed under Section 397 r/w 401 Cr.P.C., to set aside the order dated 29.05.2013 passed in C.M.P.No.642 of 2013 in D.V.O.P.No.106 of 2013 on the file of the Judicial Magistrate Court (Additional Mahila Court), Salem.

Prayer in Crl.O.P.No.18292 of 2013: Criminal Original Petition filed under Section 482 Crl.P.C. to call for the entire records in D.V.O.P.No.106 of 2013 on the file of the Special Judicial Magistrate Court (Additional Mahila Court), Salem and quash the same.

For Petitioners
in all cases : Mr.D.Sivakumaran

For RR 1 and 2
in all cases : Mr.M.Devaraj

For RR 4 and 5
in Crl.R.C.No.718 of 2013: Mrs.P.Kritika Kamal
Government Advocate
(Crl.Side)

O R D E R

While the revisions in Crl.R.C.Nos.698 & 718 of 2013 have been filed to set aside the orders dated 17.05.2013 and 29.05.2013 passed in C.M.P.Nos.592 & 642 of 2013 in D.V.O.P.No.106 of 2013, respectively, on the file of the Judicial Magistrate Court (Additional Mahila Court), Salem, the petition in Crl.O.P.No.18292 of 2013 has been filed to call for the entire records in D.V.O.P.No.106 of 2013 on the file of the Special Judicial Magistrate Court (Additional Mahila Court), Salem and quash the same.

2. For the sake of convenience, the parties will be referred to by their name.

3. The facts of the case in a nutshell are as under:

3.1 It is the case of Lakshmi that she is the wife of Palanisamy and through him she begot a daughter, Vanitha. On account of matrimonial discord, the couple got estranged. Therefore, Lakshmi and Vanitha initiated proceedings in D.V.O.P.No.106 of 2013 before the Judicial Magistrate Court (Additional Mahila Court), Salem, under the Protection of Women from Domestic Violence Act, 2005 (for brevity "the DV Act"),

claiming various reliefs against Palanisamy, Janakiraman, Krishnan and Rameshwari.

3.2 It is represented that Janakiraman was born to Palanisamy through his first wife and Krishnan is the younger brother of Palanisamy and Rameshwari is Krishnan's wife.

3.3 Lakshmi and Vanitha filed C.M.P.No.592 of 2013 in D.V.O.P.No.106 of 2013 for certain interim reliefs, which were granted by the trial Court, by order dated 17.05.2013. Since the respondents therein did not comply with the said interim order, Lakshmi and Vanitha filed C.M.P.No.642 of 2013 in D.V.O.P.No.106 of 2013 under Section 31 of the DV Act.

3.4 The trial Court issued directions in C.M.P.No.642 of 2013 in D.V.O.P.No.106 of 2013 on 29.05.2013 to the Inspector of Police, Kannankurichi Police Station, to register a case and ensure that Lakshmi and Vanitha were given accommodation in the shared household.

3.5 Challenging the order dated 17.05.2013 in C.M.P.No.592 of 2013 in D.V.O.P.No.106 of 2013, Janakiraman, Krishnan and Rameshwari have filed CrI.R.C.No.698 of 2013 under Section 397 r/w 401 Cr.P.C. before this Court.

3.6 Similarly, challenging the order dated 29.05.2013 in C.M.P.No.642 of 2013 in D.V.O.P.No.106 of 2013, Janakiraman, Krishnan and Rameshwari have filed CrI.R.C.No.718 of 2013 under Section 397 r/w 401 Cr.P.C. before this Court.

4. Notwithstanding the above, Janakiraman, Krishnan and Rameshwari filed CrI.O.P.No.18292 of 2013 under Section 482 Cr.P.C., for quashing the main case in D.V.O.P.No.106 of 2013. On the orders of the Hon'ble Chief Justice, all these matters were clubbed together and posted before this Court, for disposal.

5. It may be relevant to state here that Palanisamy has not chosen to file any revision, but, only the others have approached this Court.

6. Heard Mr.D.Shivakumaran, learned counsel for Janakiraman, Krishnan and Rameshwari and Mr.M.Devaraj, learned counsel for Lakshmi and Vanitha and Mrs.P.Kritika Kamal, learned Government Advocate (CrI.Side) for the respondents 4 and 5/State in CrI.R.C.No.718 of 2013.

7. It is represented that Palanisamy has expired and the proceedings in D.V.O.P.No.106 of 2013 has almost concluded and final orders are awaited. Since this Court has granted stay, the

trial Court is not proceeding further.

8. In the opinion of this Court, Crl.R.C.No.698 of 2013 and Crl.R.C.No.718 of 2013 have to be dismissed, since the remedy available to the parties is under Section 29 of the DV Act. Without exhausting the appeal remedy, the parties have approached this Court under Section 397 r/w 401 Cr.P.C.

9. As regards Crl.O.P.No.18292 of 2013, there are prima facie materials in the complaint given by Lakshmi and Vanitha, which requires a detailed enquiry by the trial Court and therefore, the proceedings in D.V.O.P.No.106 of 2013 cannot be quashed at the threshold. That apart, the proceedings in D.V.O.P.No.106 of 2013 has commenced and it is at the stage of conclusion. Hence, Crl.O.P.No.18292 of 2013 is also liable to be dismissed.

In view of the foregoing discussion, Crl.R.C.Nos.698 & 718 of 2013 and Crl.O.P.No.18292 of 2013 are hereby dismissed. Interim orders of stay granted by this Court stands automatically vacated.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Judicial Magistrate,
(Additional Mahila Court),
Salem.

2. do Thro Chief Judicial Magistrate,
Salem.

3.The Special Judicial Magistrate,
Additional Mahila Court, Salem.

4. The Inspector of Police,
Kannankurichi Police Station,
Salem.

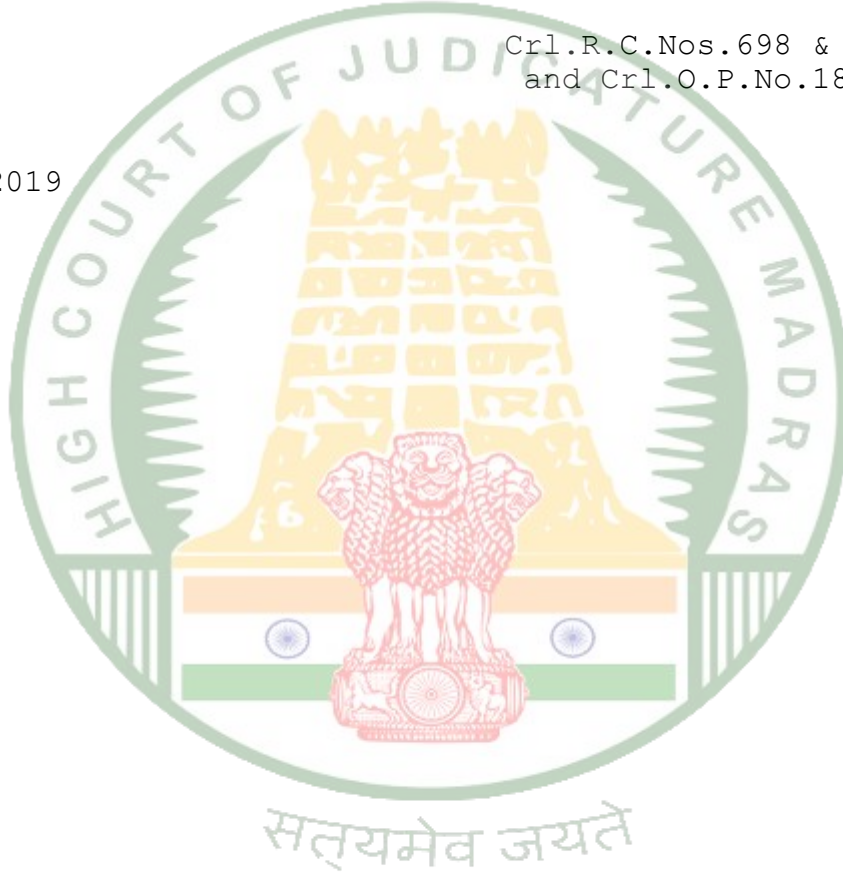
5. The Sub-Inspector of Police,
Kannankurichi Police Station,
Salem.

6. The Deputy Registrar (Crl.Section),
Madras High Court,
Chennai - 104.

+3cc to Mr.D.Shivakumar, Advocate sr.93470, 93471, 93472
+1cc to Mr.M.Devaraj, Advocate sr.93213

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and Crl.O.P.No.18292 of 2013

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