

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.4810 of 2019
and Crl.M.P.No.2840 of 2019

Vasantha Kumari

... Petitioner

Vs.

Arul Vallarasi

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records relating to the complaint, under D.V.C.No.65 of 2018, pending on the file of the Learned XVII Metropolitan Magistrate, Saidapet, Chennai 600 015 and Quash the same as against the petitioner.

For Petitioner : Mr.Suchit Anant Palande

For Respondent : Ms.E.Maragatha Sundari

O R D E R

This Criminal Original Petition has been filed to call for the records relating to the complaint, under D.V.C.No.65 of 2018, pending on the file of the Learned XVII Metropolitan Magistrate, Saidapet, Chennai 600 015 and Quash the same as against the petitioner.

2. The petitioner is the in-law of the respondent and the marriage between Al/Ramesh Thanganesan and the respondent Viz.,Arul Vallarasi was solemnized on 11.05.2017. 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.65 of 2018 on the file of the Learned XVII Metropolitan Magistrate, Saidapet, Chennai and implicated the petitioner and her husband as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.65 of 2018 is pending for trial. At this stage, the petitioner herein who is the in-law of the respondent pray to quash the proceedings in D.V.C.No.65 of 2018.

3. Heard Mr.Suchit Anant Palande, learned counsel for the petitioner and Ms.E.Maragatha Sundari, 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 in-law 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 petitioner/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 the petitioner. In the absence of the same, the proceedings as against the 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 DVC.No.65 of 2018, on the file of the Learned XVII Metropolitan Magistrate, Saidapet, Chennai, insofar as the petitioner is concerned, on condition that, the petitioner shall ensure that the AI/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 DVC.No.65 of 2018, on the file of the Learned XVII Metropolitan Magistrate Saidapet, Chennai, 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 AI/husband of the respondent is concerned, since the impugned proceedings in DVC.No.65 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. AI/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, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CJ Conf)

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Sub Assistant Registrar

pds/lok

To

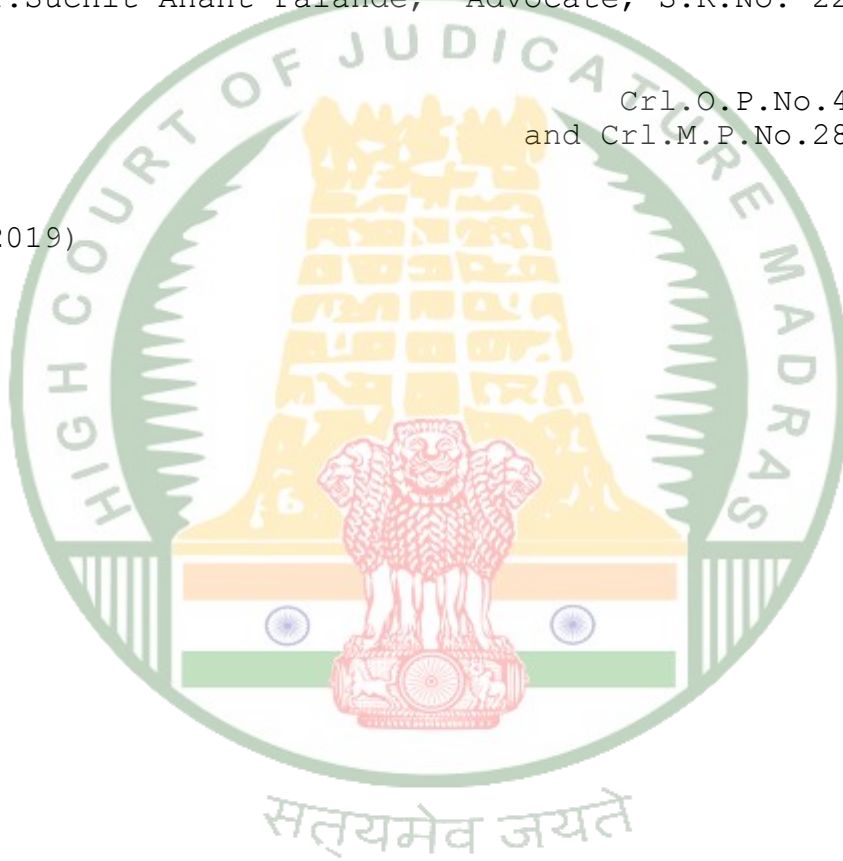
1.The Learned XVII Metropolitan Magistrate,
Saidapet, Chennai 600 015.

2. Do Thro The Chief Metropolitan Magistrate,
Chennai.

+lcc to Mr.E.Maragatha Sundari, Advocate, S.R.No. 22979
+lcc to Mr.Suchit Anant Palande, Advocate, S.R.No. 22708

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KK (CO)
GN (03/06/2019)



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