

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.6399 of 2019 and

CrI.M.P.No.3564 of 2019

Manjula

...Petitioner

-Vs-

1.Priyadharshini

2.Minor Boomika

Rep by The Mother and Guardian

Priyadharshini.

.... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records and quash the complaint against the petitioner in D.V.C.No.9 of 2018 now pending before the learned Judicial Magistrate, Sirkazhi, Nagapattinam District.

For Petitioners : Mr.R.Rajesh Vivekananthan

For Respondents : No Appearance

ORDER

The criminal original petition has been filed to quash the proceedings in D.V.C.No.9 of 2018 now pending before the learned Judicial Magistrate, Sirkazhi, Nagapattinam District and quash the same as illegal, incompetent and without jurisdiction by allowing the present criminal original petition.

2.The petitioners is the in-law of the first respondent and the marriage between A1/A.Gubendran and the first respondent Viz.,P.Priyadharshini was solemnized on 25.05.2012. Thereafter, due to matrimonial disputes the first 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.9 of 2018 now pending before the learned Judicial Magistrate, Sirkazhi, Nagapattinam

District, 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.9 of 2018 is pending for trial. At this stage, the petitioner herein who is the in-law of the respondent prays to quash the proceedings in D.V.C.No.9 of 2018.

3. Heard Mr.R.Rajesh Vivekananthan, the learned counsel for the petitioner.

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 in-law of the first respondent and they are living separately. As such, the protection order sought for by the first respondent herein in the domestic violence case against the 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 first 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 petitioner. In the absence of the same, the proceedings as against petitioner cannot be maintained and consequently, petitioner needs 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.9 of 2018 on the file of the learned Judicial Magistrate, Sirkazhi, Nagapattinam District, insofar as petitioner is concerned, on condition that, she shall ensure that the A1/husband of the first 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.C.No.9 of 2018 on the file of the learned Judicial Magistrate, Sirkazhi, Nagapattinam 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 first respondent is entitled to withdraw the same.

6. Insofar as A1/husband of the first respondent is concerned, since the impugned proceedings in D.V.C.No.9 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. A1/husband of the first respondent is directed to appear before the trial Court on the next hearing date, failing which, the first respondent is at liberty to approach this Court.

7. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

sd/
ASSISTANT REGISTRAR

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SUB-ASSISTANT REGISTRAR

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To

1 The Judicial Magistrate, Sirkazhi,
Nagapattinam District.

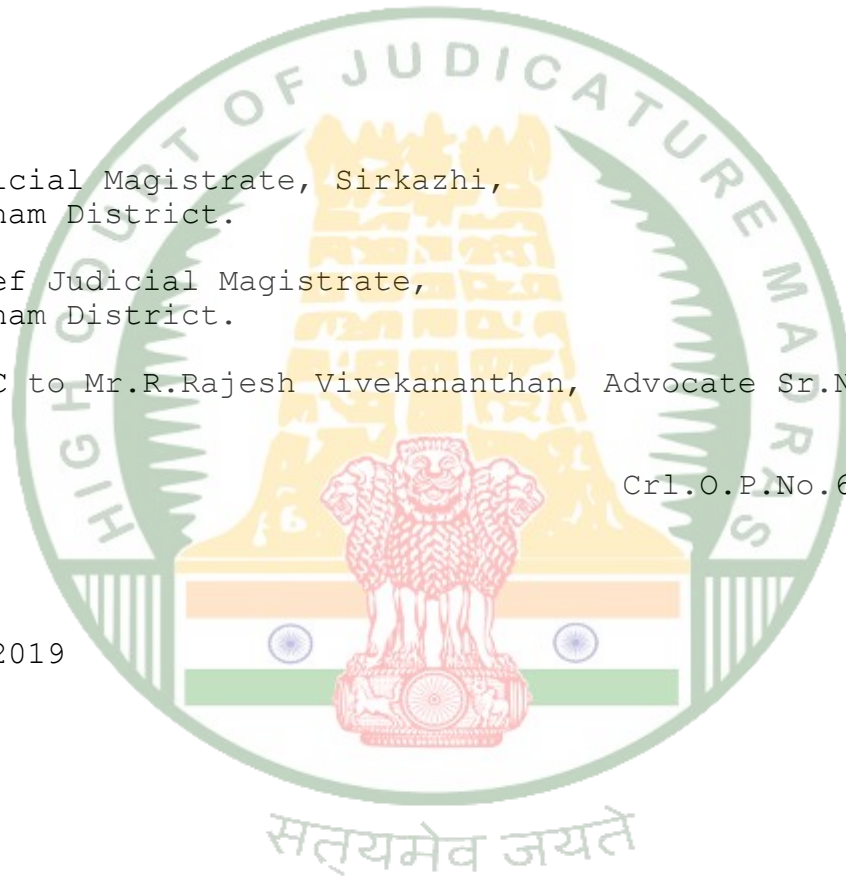
2 The Chief Judicial Magistrate,
Nagapattinam District.

+1 CC to Mr.R.Rajesh Vivekananthan, Advocate Sr.No.396381

Cr1.O.P.No.6399 of 2019

VD (CO)

TA-10/06/2019



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