

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.7441 of 2019
and CRL.M.P.No.4104 of 2019

Malliga

... Petitioner

Vs.

Vanitha

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records and quash the complaint against the petitioner in D.V.C.No.55 of 2018 now pending before the learned XVII Metropolitan Magistrate, Saidapet, Chennai.

For Petitioners: Mr.G.Gowrisankar

For Respondent : Mr.Krishna Ravindran

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.55 of 2018, filed by the respondent herein, pending on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai.

2.The petitioner is in-laws of the respondent and the marriage between Al/Iayyappan and the respondent Viz., Vanitha was solemnized on 06.06.2008. 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.55 of 2018 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai and implicated the petitioner as party to the petition and sought action as against her under Domestic Violence Act. The said D.V.C.55 of 2018 is pending for trial. At this stage, the petitioner herein who is the in-laws of the respondent pray to quash the proceedings in D.V.C.No.55 of 2018.

3.Heard Mr.G.Gowrisankar, learned counsel for the petitioner and Mr.Krishna Ravindran, learned counsel 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-laws of the respondent and she is living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against this petitioner/in-laws, 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 DVC.No.55 of 2018, on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai, insofar as this petitioner is concerned, on condition that, she shall ensure that the A1/husband of the respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of DVC.No.55 of 2018, on the file of the 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 A1/husband of the respondent is concerned, since the impugned proceedings in DVC.No.55 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 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, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

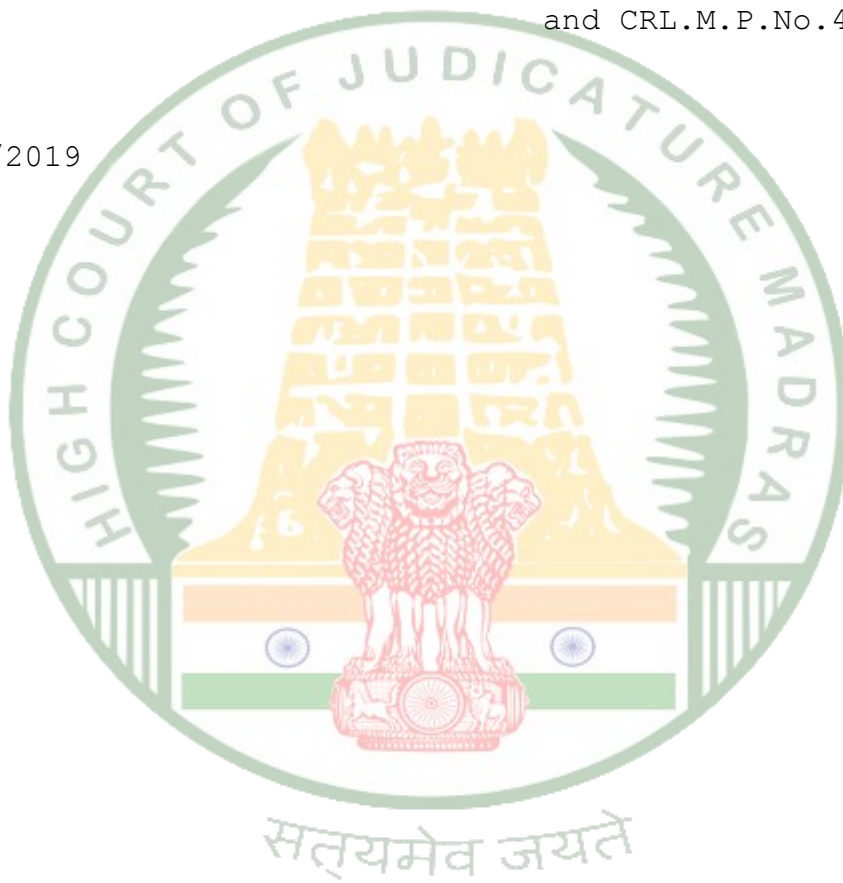
AT

To

The XVII Metropolitan Magistrate, Saidapet,
Chennai.

CRL.O.P.No.7441 of 2019
and CRL.M.P.No.4104 of 2019

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srg 17/06/2019



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