

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.16906 of 2018
and CrI.M.P.No.8724 of 2018

1.P.Gopalakrishnan
2.G.Rani
3.E.Kumar
4.K.Sumathi

... Petitioners

Vs.

Bhavani

... Respondent

PRAYER:Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pending on the file of the learned Judicial Magistrate, Additional Mahila Court, Chengalpattu, Kancheepuram District in D.V.C.No.1/2018 and quash the Criminal Proceedings.

For Petitioners: Mr.E.Kannadasan

For Respondent : Mr.G.Magesh Kumar

O R D E R

This Criminal Original Petition has been filed by the petitioners to call for the records pending on the file of the learned Judicial Magistrate, Additional Mahila Court, Chengalpattu, Kancheepuram District in D.V.C.No.1/2018 and quash the Criminal Proceedings.

2.The case of the prosecution is that the marriage between the petitioner and A1 solemnized on 23.06.2016. After their marriage, A1 suspecting the fidelity of the respondent and driven the respondent out from the matrimonial home. A1 was not showing any interest on the respondent. The petitioners have not treated her with humanity and directed the respondent to part with her salary and properties. The 4th petitioner grabbed the salary of the respondent and asked the accounts and abused her

with filthy language. Thereafter, A1 filed a petition before the learned Family Court, Chengalpattu, Kancheepuram District in F.C.O.P.No.104/2017 seeking divorce from the respondent and summon also served to the respondent and the same is pending. Meanwhile, the respondent filed a petition before the learned Family Court, Chengalpattu, Kancheepuram District in F.C.M.C.No.34 of 2017 for claiming maintenance of Rs.25,000/- from her husband. Thereafter, the respondent filed a petition under Domestic Violence Act in D.V.C.No.1 of 2018.

3.Heard Mr.E.Kannadasan, learned counsel for the petitioners and Mr.G.Magesh Kumar, learned counsel appearing for the respondent.

4.It is seen that the relief sought for by the respondent in the domestic violence case can be made and claimed as against her husband, who is already a party in that case. The petitioners herein are only mother-in-law and father-in-law and other 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 these petitioners based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 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 petitioners. In the absence of the same, the proceedings as against the petitioners cannot be maintained and consequently, the petitioners 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.1 of 2018, on the file of the learned Judicial Magistrate, Additional Mahila Court, Chengalpattu, Kancheepuram District, only insofar as the petitioners are concerned and on condition that, they shall ensure that A1/ husband of the 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.1 of 2018, learned Judicial Magistrate, Additional Mahila Court, Chengalpattu, Kancheepuram 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 respondent is entitled to withdraw the same. However, the domestic violence case 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.

6.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

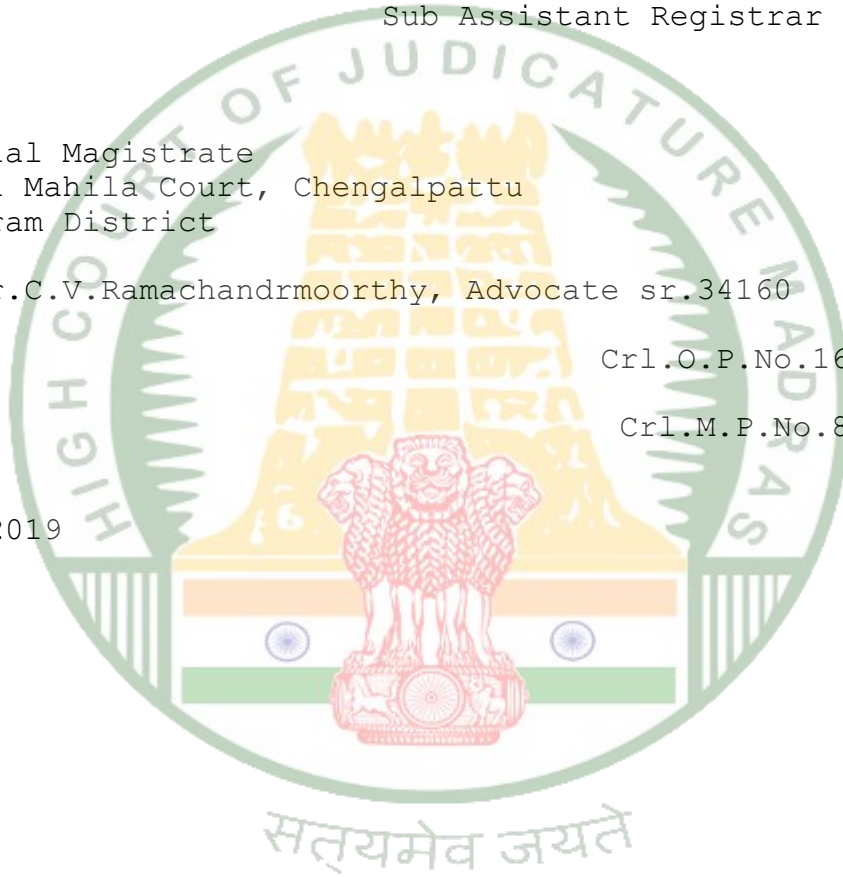
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The Judicial Magistrate
Additional Mahila Court, Chengalpattu
Kancheepuram District

+1cc to Mr.C.V.Ramachandrmoothy, Advocate sr.34160

Crl.O.P.No.16906 of 2018
and
Crl.M.P.No.8724 of 2018

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