

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2019

CORAM

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

CRL.O.P.NO.17027 OF 2018

AND

CRL.M.P.NO.8794 OF 2018

1. M.Sekar

2. S.Uma

... Petitioners/Respondents

Vs.

G.Anitha

... Respondent/Complainant

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the case in D.V.No.6/2017 on the file of the Learned Judicial Magistrate No.1, Poonamallee and quash the same.

For Petitioners: M/s.A.Madhumathi

For Respondent : M/s.Gita Ashokan

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in D.V.No.6 of 2017 on the file of the Learned Judicial Magistrate No.1, Poonamallee.

2. The petitioners are in-laws of the respondent and their son, namely, Muthukumar, is the husband of the respondent. The marriage between the said Muthukumar and the respondent was solemnized on 12.02.2016 and thereafter, due to matrimonial disputes, the respondent and her husband Muthukumar were living separately from the matrimonial home. Under this circumstance, the respondent herein has lodged a complaint in D.V.No.6 of 2017 on the file of the Learned Judicial Magistrate No.1, Poonamallee and implicated the petitioners and their son as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.No.6 of 2017 is pending for trial. At this stage, the petitioners pray to quash the complaint in D.V.No.6 of 2017.

3. M/s.A.Madhumathi, learned counsel appearing for the

petitioners would submit that the first petitioner is no more.

4. However, 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 petitioners herein are only in-laws of the respondent and therefore, the protection order sought for by the respondent herein in the domestic violence case against the 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 second petitioner need not undergo the ordeal of facing a criminal trial.

5. In view of the above, this Court is inclined to quash the complaint in D.V.No.6 of 2017 on the file of the Learned Judicial Magistrate No.1, Poonamallee, insofar as the petitioners are concerned, on condition that the second petitioner shall ensure that her son Muthukumar shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of D.V.No.6 of 2017 on the file of the Learned Judicial Magistrate No.1, Poonamallee, 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 the husband of the respondent is concerned, since the impugned proceedings in D.V.No.6 of 2017 is pending from the year 2017 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 a copy of this order. The 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 is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

raja

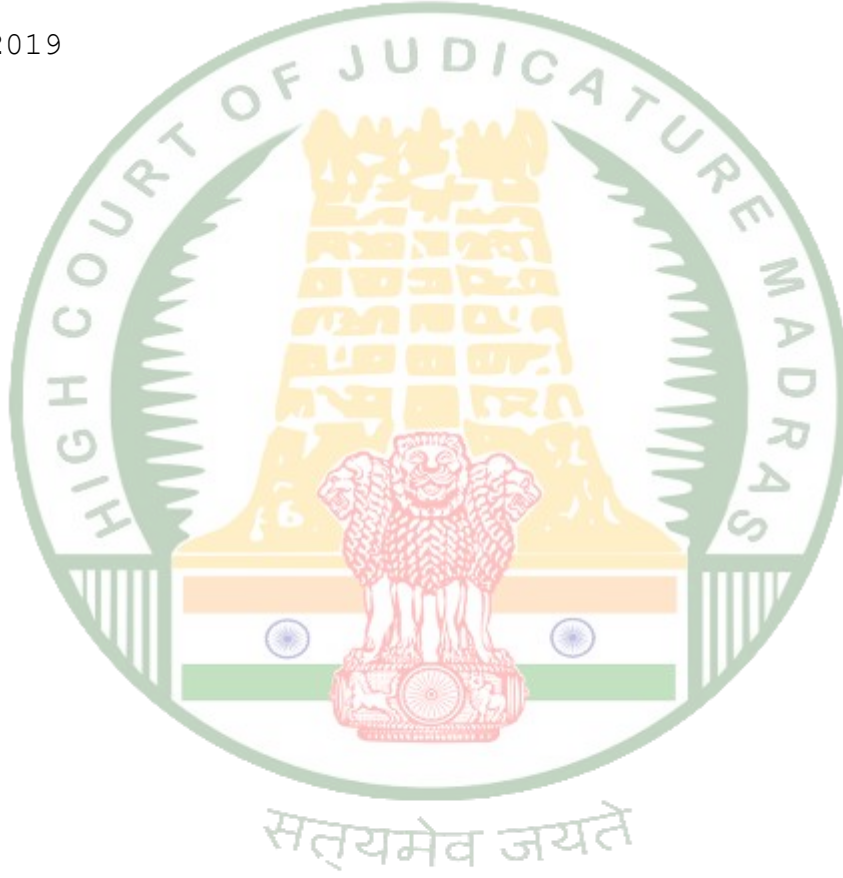
To

The Judicial Magistrate No.1,
Poonamallee.

+1cc to Mr.C.P.Palanichamy, Advocate, S.R.No.24024

CrI.O.P.No.17027 of 2018
and
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AK (CO)
CS/24/04/2019



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