

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.22720 of 2018
and
CrI.M.P.Nos.12620 & 12621 of 2018

1.Perumayee
2.Palanisamy

... Petitioners

Vs.

Mohanapriya

... Respondent

PRAYER:Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to D.V.C.No.51 of 2018 pending on the file of the Additional Mahila Court cum Judicial Magistrate at Salem and quash the same as illegal, incompetent and without jurisdiction by allowing the present Criminal Original Petition.

For Petitioners: Mr.R.Jayaprakash

For Respondent : No Appearance

O R D E R

सत्यमेव जयते

This Criminal Original Petition has been filed by the petitioners to call for the records pertaining to D.V.C.No.51 of 2018 pending on the file of the Additional Mahila Court cum Judicial Magistrate at Salem and quash the same as illegal, incompetent and without jurisdiction by allowing the present Criminal Original Petition.

2.The learned counsel for the petitioners would submit that the marriage between the petitioner and A1 solemnized on 11.03.2016. The respondent filed a Domestic Violence complaint before the Additional Mahila Court cum Judicial Magistrate,

Salem on 04.06.2018, raising false and wild allegations against the petitioners herein. There is no demand of dowry at all from the petitioners. It was the respondent who actually tortured the petitioners and her husband. The only allegation raised by the respondent against the petitioners in the complaint is that they have abused the respondent verbally. In every incident which she has alleged that has taken place the respondent has simply included the name of the petitioners herein just to add up. The petitioners are living separately. The respondent has initiated the present proceedings under Section 12 read with section 17, 18, 19(1), 20 and 22 of the Protection of Women from Domestic Violence Act, 2005. Hence this petition.

3. Heard Mr.R.Jayaprakash, learned counsel for the petitioners and there is no appearance 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 of the respondent and the petitioners are 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 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.51 of 2018 pending on the file of the Additional Mahila Court cum Judicial Magistrate at Salem, 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.51 of 2018 before the learned Judicial Magistrate, Additional Mahila Court, Salem 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 petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

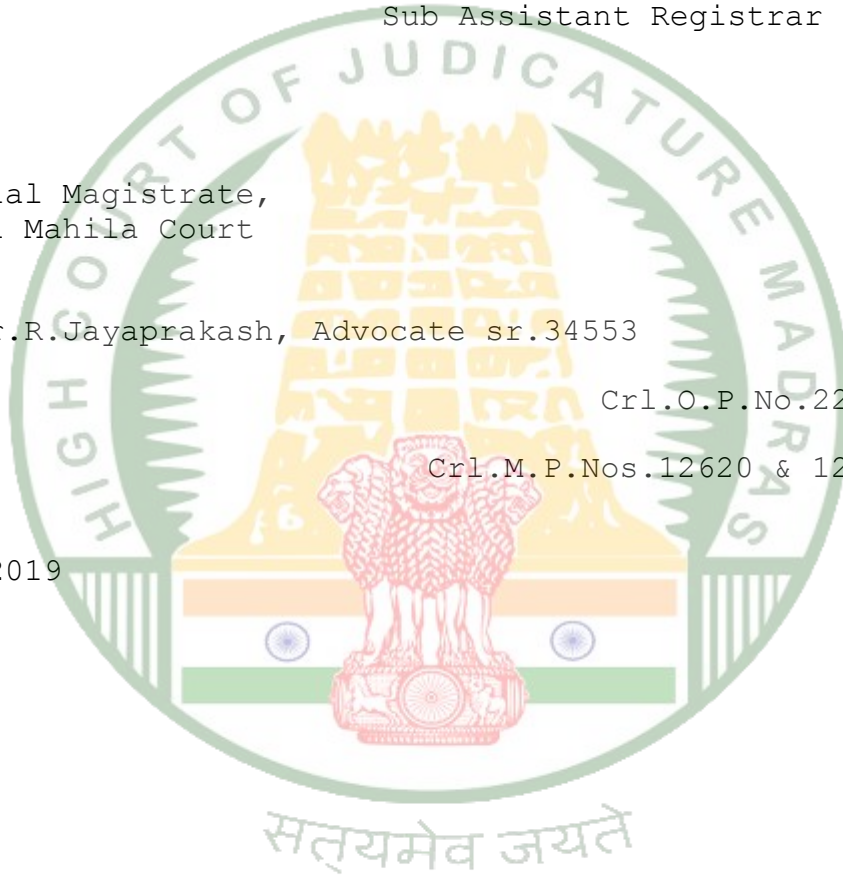
To:

The Judicial Magistrate,
Additional Mahila Court
Salem

+1cc to Mr.R.Jayaprakash, Advocate sr.34553

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and
Crl.M.P.Nos.12620 & 12621 of 2018

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nr 19/06/2019



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