

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.2460 of 2014
and M.P.No.1 of 2014

1. O.N.Changesh Khan
2. O.T.Nagoor Meeran
3. Daulath Unissa
4. O.N.Parveen Banu
5. Sirajuddin
6. M.Mahmooda Bibi ...Petitioners

Vs.

L. Shabeena Begum ...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the entire records connected with the case in D.V.A.No.3 of 2013 on the file of the learned Judicial Magistrate No.II, Udumalpet, Tirupur District and quash the same.

For Petitioners : M/s.S.Sathia Chandran

For Respondent : M/s.P.V.Rajeswari

ORDER

This Criminal Original Petition has been filed to call for the entire records connected with the case in D.V.A.No.3 of 2013 on the file of the learned Judicial Magistrate No.II, Udumalpet, Tirupur District and quash the same.

2. The case of the petitioners is that the first petitioner is the husband of the respondent / de-facto complainant and the petitioners 2 to 6 are her in laws. The first petitioner and the respondent got married on 08.02.2012 and blessed with a girl baby on 13.03.2013. After delivery, the respondent did not return to her matrimonial home, hence the first petitioner sent a lawyer's notice on 22.07.2013. Even then, she did not return, hence, the first petitioner divorced the de-facto complainant by pronouncing Talaq on 30.08.2013 and the Divorce Certificate was issued by Qazi, Golconda, Hyderabad on 05.09.2013. Thereafter, in order to wreak vengeance against the first petitioner and his

family members, the de-facto complainant filed proceedings in D.V.A.No.3 of 2013 under the Protection of Women from Domestic Violence Act 2005 with false and wild allegations. Hence, the petitioners filed this petition to quash the proceedings.

3. Heard the counsel for the petitioners and the counsel appearing for the respondent.

4. It is seen that the first petitioner and the de-facto complainant are husband and wife and due to matrimonial dispute, the first petitioner pronounced Talaq. The de-facto complainant alleged that the first petitioner without having any proper job cheated and married her and after marriage, he along with his family members, made dowry harassment. The petitioners 2 to 6 herein are in-laws of the respondent and the protection order sought for by the respondent herein in the Domestic Violence case against the petitioners 2 to 6/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the in-laws against the respondent themselves seem to be false. While that being so, there cannot be any act of domestic violence as defined under Domestic Violence Act against the in-laws. In the absence of the same, the proceedings as against the in laws-cannot be maintained and consequently, the petitioners 2 to 6 need not undergo the ordeal of facing a criminal trial. However, as prima-facie case is made out against the first petitioner, the proceeding against him cannot be quashed.

5. In view of the above, this Court is inclined to quash the proceedings in D.V.A.No.3 of 2013, on the file of the Judicial Magistrate No.II, Udumalpet, Tirupur District, insofar as the petitioners 2 to 6 are concerned, on condition that, they shall ensure that the first petitioner / 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 DVA.No.3 of 2013, on the file of the Judicial Magistrate No.II, Udumalpet, Tirupur 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.

6. Insofar as the first petitioner is concerned, since the impugned proceedings in D.V.A.No.3 of 2013 is pending from the year 2013 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 and the first petitioner is directed to appear before the trial Court on the hearing dates, failing which, the respondent is at liberty to approach this Court.

7. In the result, this Criminal Original Petition stands dismissed as against the first petitioner and allowed in respect of the petitioners 2 to 6. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

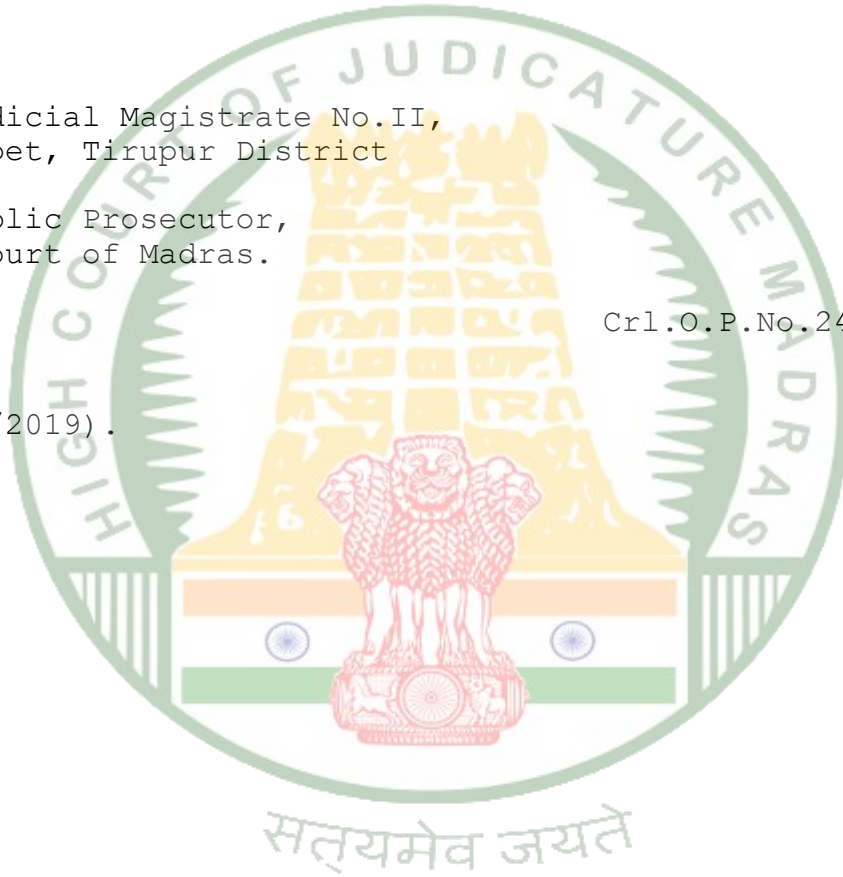
pvs

To

1. The Judicial Magistrate No.II,
Udumalpet, Tirupur District
2. The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.2460 of 2014

SJ(CO)
SSM(21/03/2019).



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