

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN
CRL.O.P.No.4048 of 2014
and M.P.Nos.1 & 2 of 2014

1.M.Lakshmi
2.G.Sasitha
3.Giri

... Petitioners

Vs.

1. J.Karpagam
2. M.Jayakrishnan
3. S.Chitra

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in D.V.A.No.9 of 2013 pending on the file of the learned Judicial Magistrate No.II, Tiruppur and quash the same.

For Petitioners : Mr.K.Vignesh Karthick

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.A.No.9 of 2013, filed by the first respondent herein, pending on the file of the learned Judicial Magistrate No.II, Tiruppur.

2. The second and first respondent are husband and wife and the petitioners are their neighbours. The marriage between the first and second respondent was solemnized in the year 1996. Thereafter, due to matrimonial disputes the first respondent and her husband were living separately from the matrimonial home. Under this circumstance, the first respondent herein filed a petition under Domestic Violence Act in D.V.A.No.9 of 2013, pending on the file of the learned Judicial Magistrate No.II, Tiruppur and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.A.No.9 of 2013 is pending for trial. At this stage, the petitioners herein who are the neighbours of the first respondent pray to quash the proceedings in D.V.A.No.9 of 2013.

3. Heard Mr.K.Vignesh Karthick, learned counsel for the petitioners. Though notice has been served in the year 2014 itself, no one has entered appearance on behalf of the respondents.

4. It is seen that the relief sought for by the first 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 neighbours of the first respondent and they are living separately. As such, the protection order sought for by the first respondent herein in the domestic violence case against these petitioners/neighbours, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners against the first 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 these petitioners. In the absence of the same, the proceedings as against these 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.A.No.9 of 2013, pending on the file of the learned Judicial Magistrate No.II, Tiruppur, insofar as these petitioners are concerned. Insofar as respondents 2 & 3 are concerned, since the impugned proceedings in D.V.A.No.9 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. Al/husband of the respondent is directed to appear before the trial Court on the next hearing date, failing which, the first respondent is at liberty to approach this Court.

6. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

rts

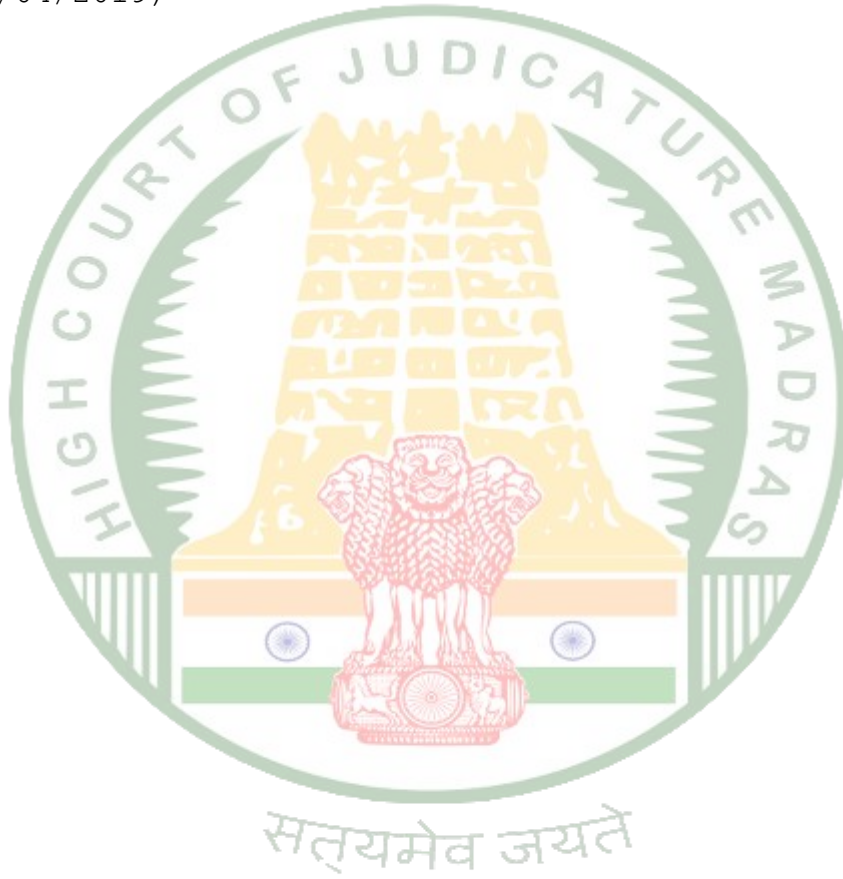
To

1. The Judicial Magistrate Court No.II,
Tiruppur.

+1cc to Mr.K.Vignesh Karthick , Advocate SR.No. 14184

CRL.O.P.No.4048 of 2014
and M.P.Nos.1 & 2 of 2014

A.SK(05/04/2019)



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