

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN
CRL.O.P.No.16075 of 2014
and M.P.Nos.1 & 2 of 2014

1.G.Nishar Ahmed
2.G.Khairun Bee

... Petitioners

Vs.

S.Hafeesa Begum

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in C.C.No.1834 of 2013 on the file of V Metropolitan Magistrate, Egmore, Chennai and quash the same.

For Petitioners: Mr.K.Sellathurai
For Respondent : Mr.TKS Gandhi

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.1834 of 2013, filed by the respondent herein, pending on the file of the V Metropolitan Magistrate, Egmore, Chennai.

2. The first petitioner is the husband of the respondent herein and the second petitioner is mother-in-law of the respondent and the marriage between the first petitioner and the respondent was solemnized on 29.04.2011. Thereafter, due to matrimonial disputes the first petitioner and the respondent were living separately from the matrimonial home. Under this circumstance, the respondent herein filed a petition in C.C.No.1834 of 2013 on the file of the V Metropolitan Magistrate, Egmore, Chennai and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said C.C.No.1834 of 2013 is pending for trial. At this stage, the petitioners herein who are the husband and mother-in-law of the respondent prayed to quash the proceedings in C.C.No.1834 of 2013.

3. Heard Mr.K.Sellathurai, learned counsel for the petitioners and Mr.TKS Gandhi, learned counsel for the respondent.

4. It is seen that 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 the first petitioner who is already a party in that case. The second petitioner herein is only mother-in-law of the respondent and they are living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against the second petitioner / mother-in-law, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the second petitioner 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 second petitioner. In the absence of the same, the proceedings as against the second petitioner 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 proceedings in C.C.No.1834 of 2013, on the file of the V Metropolitan Magistrate, Egmore, Chennai, insofar as the second petitioner is concerned, on condition that, she shall ensure that the first petitioner shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of C.C.No.1834 of 2013, on the file of the V Metropolitan Magistrate, Egmore, Chennai, 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 C.C.No.1834 of 2013 is pending from the year 2013 onwards, it would be appropriate for this Court 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 first petitioner 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 view of the above, the proceedings in C.C.No.1834 of 2013 is quashed insofar as against the second petitioner alone. In the result, this Criminal Original Petition is partly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1.The V Metropolitan Magistrate, Egmore, Chennai.

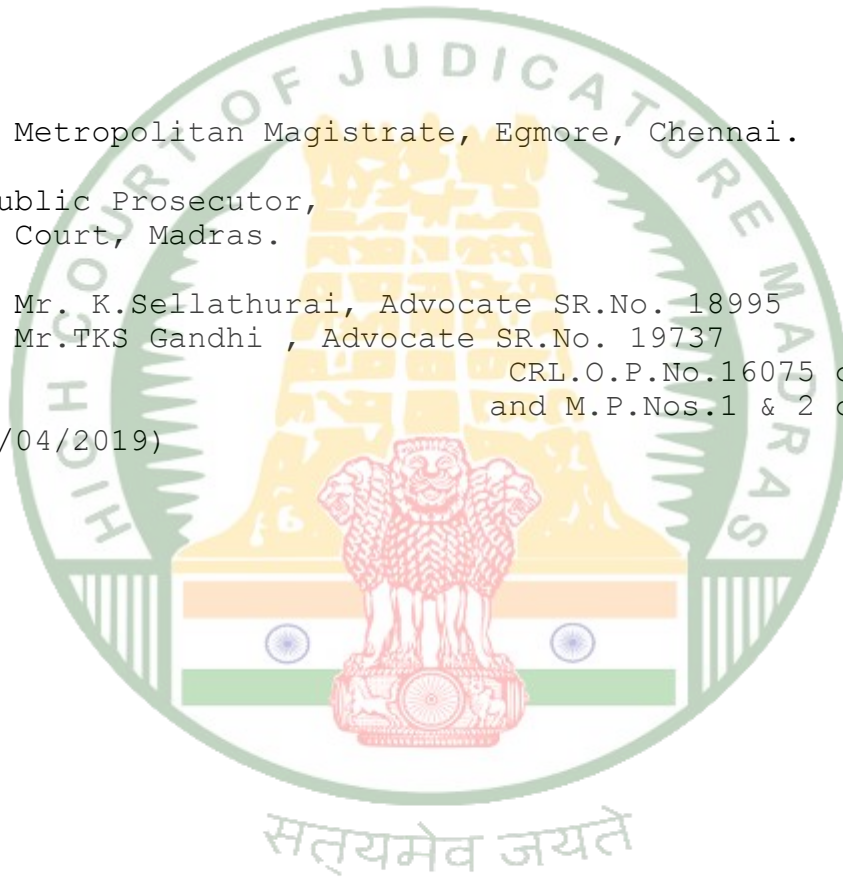
2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr. K.Sellathurai, Advocate SR.No. 18995

+1cc to Mr.TKS Gandhi , Advocate SR.No. 19737

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A.SK(09/04/2019)



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