

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.26096 of 2014

and

M.P.No.1 of 2014

1. T.R.Pathisenthil
 2. T.R.Subbaiyan
 3. Sulochana
- ...Petitioners/Respondents

Vs.

Aiswaryapathi ...Respondent/ Petitioner

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records with respect of DVA. 43 of 2014 on the file of the Judicial Magistrate Court VI, Coimbatore filed by the respondent and quash the same.

For Petitioners : Mr. R.Nalliyappan

For Respondent : Mr. C.Arun Kumar

ORDER

This Criminal Original Petition has been filed challenging the proceedings initiated by the respondent under the DV Act.

2. These petitioners are husband, father-in-law and mother-in-law of the respondent.

3. The learned counsel for the petitioners submitted that the entire proceedings initiated by the respondent is an abuse of process of Court since the 1st petitioner had already initiated divorce proceedings in the year 2012 itself and when the same was pending, the respondent has filed the present petition under the D.V Act making false and frivolous allegations. The learned counsel further submitted that the 2nd and 3rd respondents who are the in-laws have been unnecessarily

dragged into the proceedings only with a view to harass them. The learned counsel concluded his arguments stating that the 1st petitioner is already paying maintenance of a sum of Rs.15,000/- to the respondent from the year 2012 onwards.

4. The learned counsel for the respondent submitted that there are sufficient allegations made in the petition and the issues raised in this petition by the petitioners are factual in nature and it does not require interference of this Court. The learned counsel further submitted that the respondent has been left in lurch and she has been sent away from the matrimonial home and she is living with her parents.

5. This Court has carefully considered the submissions made on either side and the materials placed on record.

6. It is seen from the petition that certain specific averments have been made by the respondent against the 1st petitioner. In-so-far-as the 2nd and 3rd petitioners are concerned, there are only general averments made against them without their being any specific allegations against them.

7. In the considered view of this Court, the 1st petitioner has to necessarily face the proceedings before the Court below. In-so-far-as the 2nd and 3rd petitioners are concerned, the entire proceedings is an abuse of process of Court and it requires the interference of this Court. The Court below while considering the petition shall take into account the maintenance already paid by the 1st petitioner to the respondent.

8. In the result, this Criminal Original Petition is partly allowed and in-so-far-as the 1st petitioner is concerned, the same is dismissed and the proceedings in D.V.A. 43 of 2014 in-so-far-as the 2nd and 3rd petitioners are concerned is hereby quashed. The Court below is directed to complete the proceedings in DVA. 43 of 2014 as against the 1st petitioner (husband) within a period of three months from the date of receipt of copy of this order. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

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Sub Assistant Registrar

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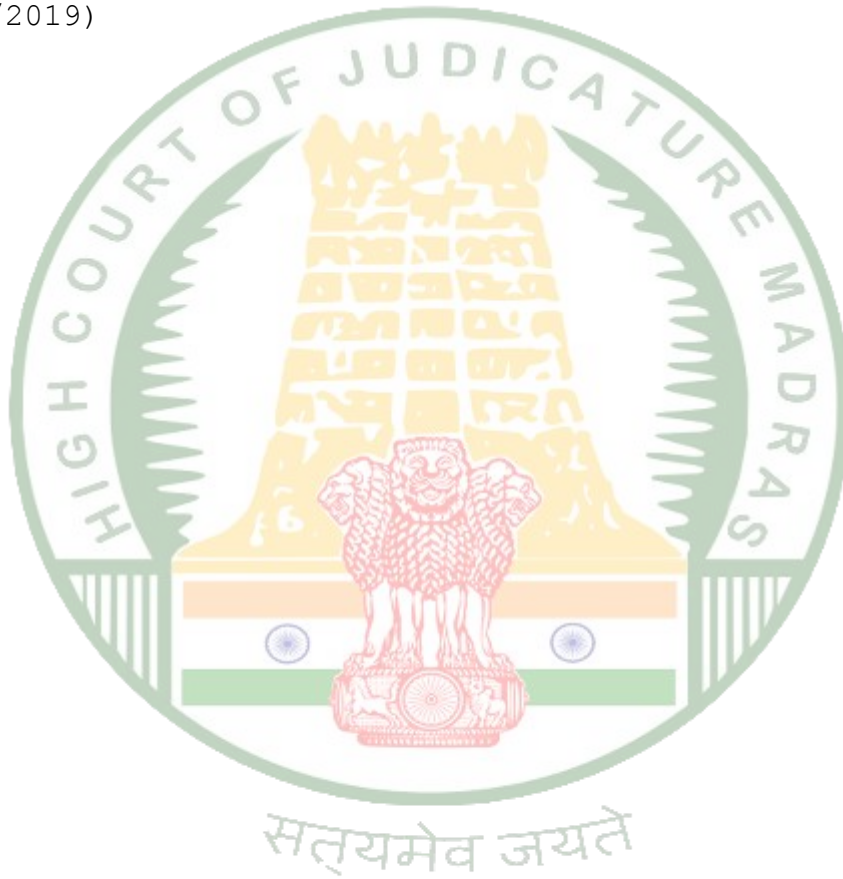
To

The Judicial Magistrate No.VI, Coimbatore.

+1cc to Mr.R.Nalliyappan, Advocate SR.No.48948

CRL.OP.No.26096 of 2014
and
M.P.No.1 of 2014

RSI (CO)
GMY (05/07/2019)



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