

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P. No. 17495 of 2014
and
M.P. Nos. 1 & 2 of 2014

1.Punniyakotti
2.Murugammal
3.Revathi

... Petitioners/Respondents 2 to 4

Vs.

Chithira

.... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to pass an order calling for the records in M.C. No. 45 of 2014 now pending on the file of the Learned IX Metropolitan Magistrate at Saidapet, Chennai and quash the same.

For Petitioners: Mr.R.Ganesh Kumar,
For Mr.D.Selvam

For Respondent : Mr.Mubarak Ahamed
for M/s.Ahmed Association,

ORDER

This Criminal Original Petition has been filed to call for the records in M.C.No. 45 of 2014 now pending on the file of the Learned IX Metropolitan Magistrate at Saidapet.

2. The petitioners are in-laws of the respondent and the marriage between Al/Prakash and the respondent Viz.,Chithira was solemnized on 27.08.2012. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home. Under this circumstance, the respondent herein filed a petition under Domestic Violence Act in MC No.45 of 2014 on the file of the Learned IX Metropolitan Magistrate, Saidapet, Chennai and implicated her husband and the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said MC No.45 of 2014 is pending for trial. At this stage, the petitioners

herein who are the in-laws of the respondent pray to quash the proceedings in MC No.45 of 2014.

3. Heard Mr.R.Ganesh Kumar, for Mr.D.Selvam, learned counsel for the petitioners and Mr.Mubarak Ahmed for M/s.Ahmed Association,, learned counsel appearing 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 her husband, who is already a party in that case. The petitioners herein are only in-laws 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 petitioners/in-laws, 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 any domestic violence as defined under Domestic Violence Act against petitioners. In the absence of the same, the proceedings as against 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 MC No.45 of 2014, on the file of the Learned IX Metropolitan Magistrate, Saidapet, Chennai, insofar all the petitioners are allowed, on condition that, they shall ensure that the A1/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 MC No.45 of 2014, on the file of the Learned IX Metropolitan Magistrate, Saidapet, 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 A1/husband of the respondent is concerned, since the impugned proceedings in MC No.45 of 2014 is pending from the year 2014 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. A1/husband of the respondent 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 the result, this Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

pds/lok

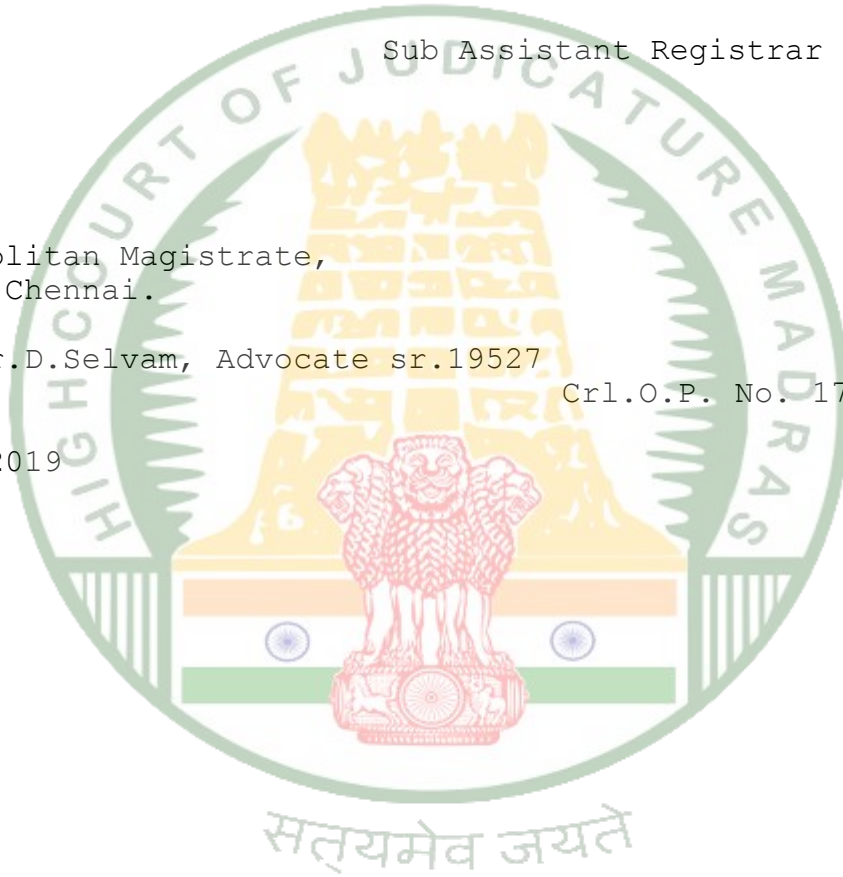
To

IX Metropolitan Magistrate,
Saidapet, Chennai.

+1cc to Mr.D.Selvam, Advocate sr.19527

Cr1.O.P. No. 17495 of 2014

nr 03/05/2019



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