

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No. 19391 of 2014
and MP.No.1 of 2014

Chellam Salavation

.. Petitioner

Vs.

1.D.Merline

2.V.Sankar

.. Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records and quash the Criminal Complaint preferred by the respondent in M.C.No.37 of 2014 on the file of the XVII Metropolitan Magistrate, Saidapet.

For Petitioner : Mr.M.Liagat Ali

For Respondents: No Appearance

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in M.C.No.37 of 2014, filed by the first respondent herein, pending on the file of the learned Metropolitan Magistrate No.XVII, Saidapet.

2. The second and the first respondents are husband and wife and the petitioner is second respondent's neighbour. The marriage between the first and second respondent was solemnized in the year 2012. Thereafter, due to matrimonial disputes the first respondent and her husband were living separately from the matrimonial home. Under this circumstance, the second respondent herein filed a petition under Section 10 of the Divorce Act in IDOP No.9 of 2013 against the first respondent before the District Judge, Nagercoil. In this circumstances, the first respondent filed a petition in M.C.No.37 of 2014 before the Magistrate Court, Saidapet under Domestic Violence Act, and impleaded the petitioner as party to the petition and the same is pending for trial. He further submitted that the petitioner is the warden of the orphanage home.

3. Heard Mr.M.Liagat Ali, learned counsel for the petitioner and perused the materials available on record.

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 petitioner herein is only a neighbour of the second respondent and she is living separately. As such, the protection order sought for by the first respondent herein in the domestic violence case as against the petitioner/neighbour, based on the allegations, cannot be maintained. In view of the fact that the allegations of harassment meted out by the petitioner by the first respondent itself seems to be false. While that being so, there cannot be any act of domestic violence as defined under Domestic Violence Act against the petitioner. In the absence of the same, the proceedings as against the petitioner cannot be maintained and consequently, the 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 M.C.No.37 of 2014, pending on the file of the learned Judicial Magistrate No.XVII, Saidapet, Chennai, insofar as this petitioner is concerned. Insofar as the 2nd respondent is concerned, since the impugned proceedings in M.C.No.37 of 2014 is pending from the year 2014 onwards. As such this Court is inclined 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. The second 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 petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mpa/lpp

To

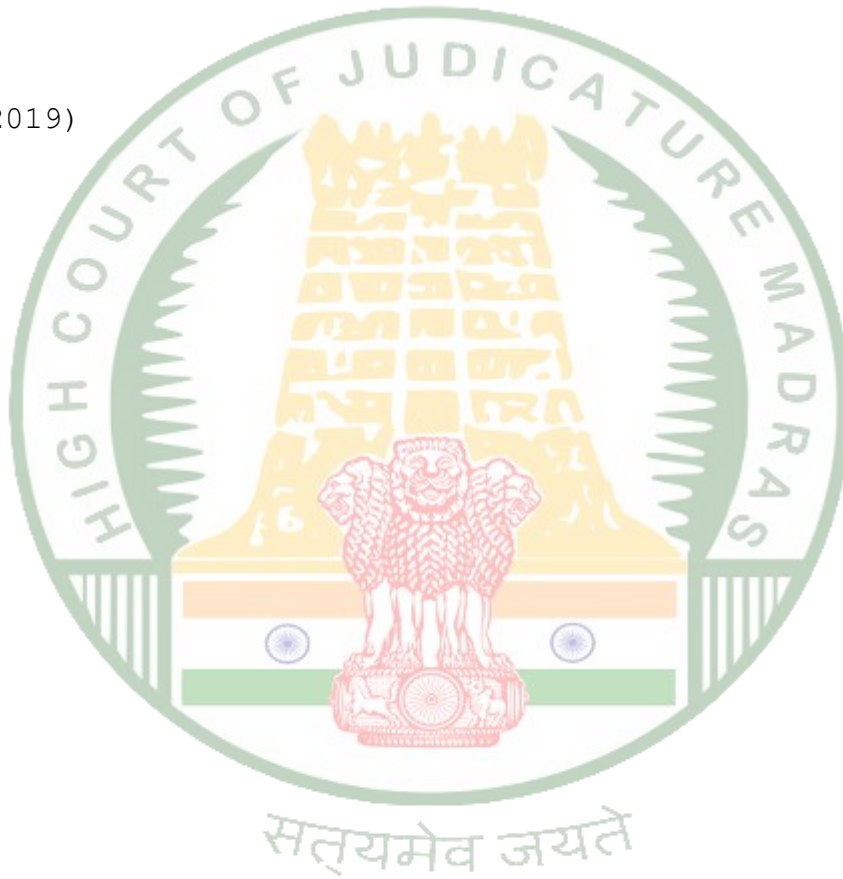
1.The XVII Metropolitan Magistrate,
Saidapet, Chennai.

2. Do Thro The Chief Metropolitan Magistrate, Egmore, Chennai.

+1 CC to Mr.M.Liagat Ali, Advocate sr 21708.

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VD(CO)
SP(31/05/2019)



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