

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.03.2019

CORAM:
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.5390 of 2017
and
Crl.M.P.Nos. 4024 & 4025 of 2017

1. Christy (Wrongly mentioned as Rajammal)
2. P.Sunitha
3.S.Viji

... Petitioners

Vs.

P.Kiruthiga

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in D.V.A.No.26 of 2016 pending on the file of the Learned Judicial Magistrate No.1, Coimbatore and quash the same by allowing this Criminal Original Petition.

For Petitioners: Mr.N.Ponraj

For Respondent : No Appearance

O R D E R

This Criminal Original Petition has been filed to call for the records in D.V.A.No.26 of 2016 pending on the file of the Learned Judicial Magistrate No.1, Coimbatore and quash the same.

2. The petitioners are the in-laws of the respondent and the marriage between Al/S.Prabhu and the respondent Viz.,P.Kiruthiga was solemnized based on Hindu Rites and marriage reception was held on 13.12.2017. 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 D.V.A.No.26 of 2016 on the file of the learned Judicial Magistrate No.1, Coimbatore 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.26 of 2016 is pending for trial. At this stage, the petitioners herein who are the in-laws of the respondent have filed this Criminal Original petition praying to quash the proceedings in D.V.A.No.26 of 2016. Private Notice, issued to the respondent returned unserved with an endorsement "Addressee cannot be located".

3. Heard Mr.N.Ponraj, learned counsel for the petitioners and No appearance 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 D.V.A.No.26 of 2016, on the file of the learned Judicial Magistrate No.1, Coimbatore, insofar as petitioners are concerned, 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) per month before 5th of every English Calendar month to the credit of D.V.A.No.26 of 2016, on the file of the learned Judicial Magistrate No.1, Coimbatore, 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 D.V.A.No.26 of 2016 is pending from the year 2016 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 (CS VIII)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Judicial Magistrate No.1,
Coimbatore.

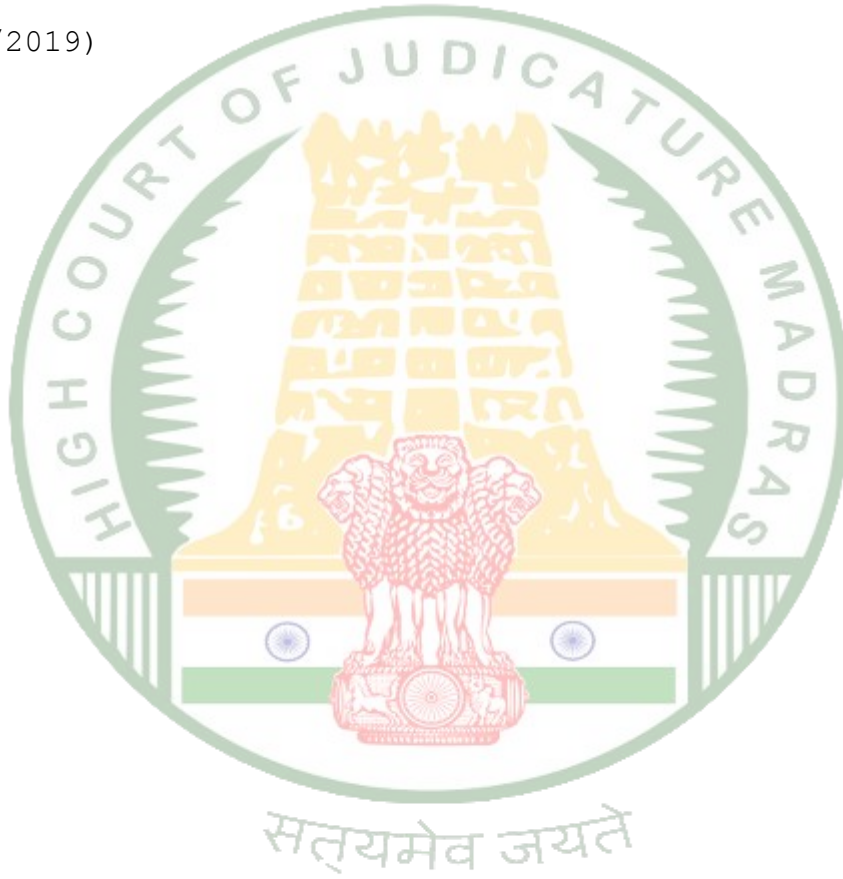
2. The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.5390 of 2017
and

CrI.M.P.Nos. 4024 & 4025 of 2017

RR(CO)

RRS (09/05/2019)



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