

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.838 of 2017
and Crl.M.P.Nos.622 and 623 of 2017

1.Natarajan
2.Vasanthakumari
3.Pradi
4.Leelavathi
5.Ramani

... Petitioners

Vs.

R.Nevedha

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining D.V.O.P.No.42 of 2016 pending on the file of the Additional Mahila/Judicial Magistrate Court at Salem and to quash the same.

For Petitioners : Mr.R.Jayaprakash

For Respondent : Mr.P.Tamilavel

O R D E R

This petition has been filed to quash the proceedings in D.V.O.P.No.42 of 2016, on the file of the Additional Mahila Court, Salem.

2.The 1st petitioner is the father-in-law and the 2nd respondent is the mother-in-law, 3rd respondent is the sister-in-law of the respondent and 4 and 5 are the sister of the 1st and 2nd petitioners respectively. The marriage between A1/Prasath Rajan and the respondent Viz.,R.Nivedha was solemnized on 09.02.2014. Though sufficient jewels, sridhana articles and dowry were given, there was a dowry demand and also torture by the petitioners to the respondent and she was forced to leave the matrimonial home on 20.09.2014. Hence, she made a compliant under Section 12 r/w Sections 18, 20 and 22 of protection of women from Domestic Violence Act before the Additional Mahila Court, Salem, in D.V.O.P.No.42 of 2016.

3.The learned counsel for the petitioner submitted that after the marriage between the petitioner/A1 and the respondent, the respondent herself disclosed that she was not interested in get marriage with him and she had someone else in her mind and was not interested to continue to live with him. Hence, she herself went to her parental home and failed to return back. Therefore, the husband of the respondent had filed a divorce Petition in HMOP.No.113 of 2015 before the Family Court, Salem, which is pending. As a counter blast to that case, the respondent has filed the present Domestic Violence petition.

4.It is seen that H.M.O.P.No.113 of 1015 filed by the husband/A1 and D.V.O.P.No.42 of 2016 filed by the wife/respondent are pending for trial. At this stage, the petitioners, who are in-laws of the respondent prays to quash the proceedings in D.V.O.P.No.42 of 2016.

5.Heard both sides.

6.It is seen that the relief sought for by the respondent in the domestic violence case can be made and claimed as against her husband, who is already a party in that case. The petitioners herein are only the in-laws of the respondent. As such, the protection order sought for by the respondent herein in the domestic violence case against these petitioners 1 to 5, based on the allegations, cannot be maintained, in view of the fact that the entire allegation is as against the husband/A1. While that being so, there cannot be any act of any domestic violence as defined under Domestic Violence Act against these petitioners. In the absence of the same, the proceedings as against the petitioners cannot be maintained and consequently, these petitioners need not undergo the ordeal of facing a criminal trial.

7.In view of the above, this Court is inclined to quash the proceedings in D.V.A.No.42 of 2016, on the file of the Judicial Magistrate Court, Additional Mahila Court, Salem, insofar as these petitioners are concerned on condition that, they shall ensure that A1/husband of the respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) per month on or before 5th of every English Calendar month to the credit of D.V.A.No.42 of 2016, on the file of the learned Judicial Magistrate, Additional Mahila Court, Salem, 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.

8.Accordingly, this Criminal Original Petition stands allowed. However, considering the Domestic Violence Complaint is of the year 2017, the trial Court is directed to complete the

trial proceedings within a period of three months from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

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To

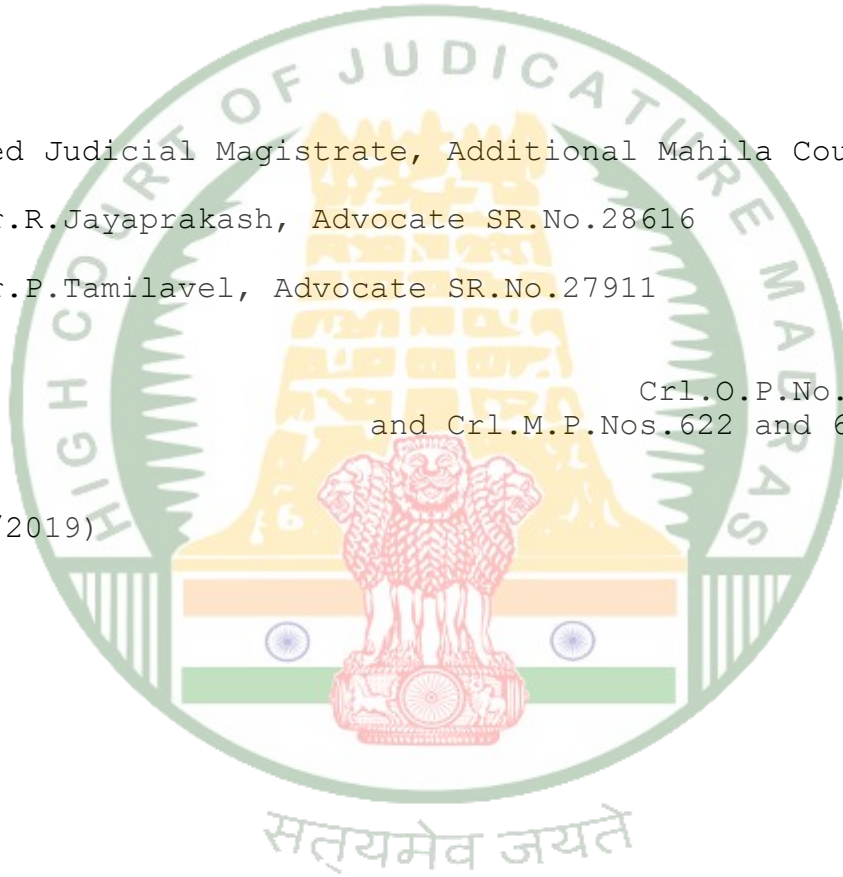
The learned Judicial Magistrate, Additional Mahila Court, Salem.

+1cc to Mr.R.Jayaprakash, Advocate SR.No.28616

+1cc to Mr.P.Tamilavel, Advocate SR.No.27911

Cr1.O.P.No.838 of 2017
and Cr1.M.P.Nos.622 and 623 of 2017

CP (CO)
GMY (23/04/2019)



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