

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.12216 of 2017
and Crl.M.P.No.7987 of 2017

1.Chandraprabha
2.Meena

...Petitioners

-Vs-

K.Deeptha Kiruba

... Respondent

Prayer:

Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to D.V.A.No.55 of 2014 on the file of the Judicial Magistrate No.1, Coimbatore and quash the same as illegal.

For Petitioners : Mr.P.Kalimuthu

For Respondent : Mr.S.Shankar

ORDER

The Criminal Original Petition has been filed seeking to quash the proceedings in D.V.A.No.55 of 2014, filed by the respondent.

2.The marriage between A1/Suresh Kannan and the respondent Viz.,Deeptha Kiruba was solemnized on 24.01.2011. At the time of marriage, the respondent's parents gave 65 sovereigns of gold and other articles and a cash of Rs.5Lakhs as sridhana and also Rs.5Lakhs towards marriage arrangement expenses.Both the petitioners are working in the I.T. field and the husband/A1 is working at U.S.A., and the petitioner is working in Chennai. While so, after marriage A1/husband asked the petitioner to resign the job at Chennai and to accompany him at USA. Thereafter, he left to USA for his job and the petitioner was residing with her mother-in-law. Few days later, the petitioners parents arranged her daughter to go to USA and join her husband. While they were living in USA, the petitioner came to

know about the illicit relationship with one helina before marriage itself and she was shocked on coming to know that her in-laws know about this even before the marriage. Thereafter, according to the prosecution, the respondent's husband and the petitioners herein, who were in-laws tortured her for demand of additional dowry and she was thrown out from the matrimonial home. Out of their wedlock, the respondent gave birth to a male child, which was not even seen by her husband. Under these circumstances, the respondent herein filed a petition under Domestic Violence Act and implicated her mother-in-law and sister-in-law as parties to the petition and seek action against them under Domestic Violence Act. The said D.V.A. No.55 of 2014 on the file of the Judicial Magistrate No.1, Coimbatore is pending for trial. At this stage, the petitioners herein who are in-laws of the respondent prays to quash the proceedings in D.V.A.No.55 of 2014.

3. Heard the learned counsel for the petitioners and the learned counsel appearing for the respondent.

4. It is seen that the relief sought for in the domestic violence case with regard to protection order, residential rights, monetary relief and compensation can be made and claimed only as against her husband, who is already a party in that case. The petitioners herein were only the in-laws of the respondent and they were living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against these 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 these petitioners. In the absence of the same, the proceedings as against these petitioners cannot be maintained and consequently, the petitioners need not undergo the ordeal of facing a criminal trial.

5. In the result, this Criminal Original Petition is allowed. Consequently, the proceedings in D.V.A.No.55 of 2014, on the file of the Judicial Magistrate Court No.1, Coimbatore, insofar as these petitioners are concerned, is quashed on condition that, they shall ensure that the husband/A1 shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of D.V.A.No.55 of 2014 on the file of the Judicial Magistrate No.1, Coimbatore, from April 2019 onwards, as ad-interim maintenance, without prejudice to both the parties. On such deposit being made, the respondent is entitled to withdraw the same.

6. Since the impugned proceedings in DVA.No.55 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. The husband/A1 is directed to appear before the trial Court on the next hearing date, failing which the defacto complainant is at liberty to approach this Court. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

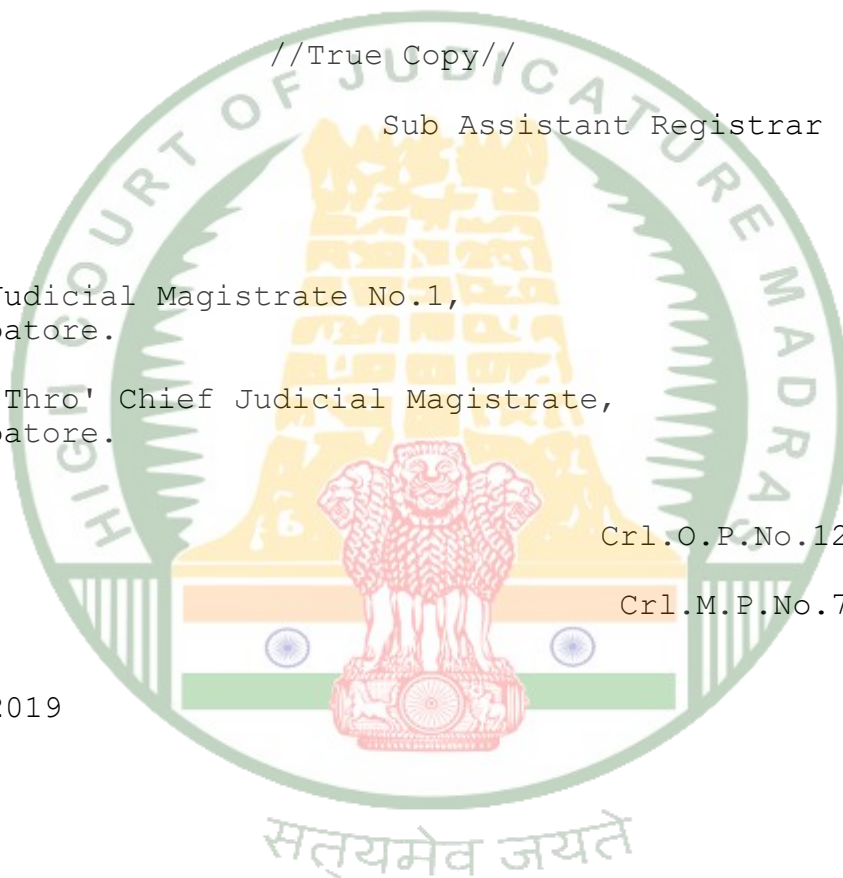
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To

1. The Judicial Magistrate No.1,
Coimbatore.
2. -Do- Thro' Chief Judicial Magistrate,
Coimbatore.

Crl.O.P.No.12216 of 2017
and
Crl.M.P.No.7987 of 2017

AK(CO)
CS/10/06/2019



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