

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.12466 of 2017
and CRL.M.P.No.8115 of 2017

1.Samsudeen

2.Mumtaj Begum

3.Rozia Farveen

4.Farzana Begum ... Petitioners

Vs.

Zannathalbrithals, ...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to quash the D.V.C.No.9 of 2016 on the file of the Judicial Magistrate Court No.II, Nagapattinam.

For Petitioners : Mr.S.Sounthar

For Respondents : Mr.A.Arul Deepan

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.No.9 of 2016, filed by the respondent, on the file of the Judicial Magistrate Court No.II, Nagapattinam.

2. The petitioners are in-laws of the respondent herein. The marriage between one Haja Najeebudeen and the 1st respondent was solemnized on 24.08.2005. Out of their wedlock, they were blessed with one son and a daughter. While so, it is alleged that the petitioners along with A1 have harassed the respondent and driven her from the matrimonial home along with her children. Hence, she filed a petition before the Protection Officer for protection order, residential rights, compensation and maintenance and to take action as against her husband and her in-laws under Domestic Violence Act. After conducting enquiry, the protection officer filed a report before the

learned Judicial Magistrate, Nagapattinam and the same was taken on file in D.V.C.No.9 of 2016 and the same is pending for trial. At this stage, the petitioners herein who are the in-laws of the respondent prays to quash the proceedings in D.V.C.No.9 of 2016.

3. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor 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 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 view of the above, this Court is inclined to quash the proceedings in D.V.C.No.9 of 2016, on the file of the learned Judicial Magistrate No.II, Nagapattinam, 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.C.No.9 of 2016, on the file of the learned Judicial Magistrate No.II, Nagapattinam 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.C.No.9 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. The husband of the respondent viz., Haja Najeebudeen, is directed to appear before the trial Court on the next hearing date, failing which, the 1st respondent is at liberty to approach this Court.

7. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

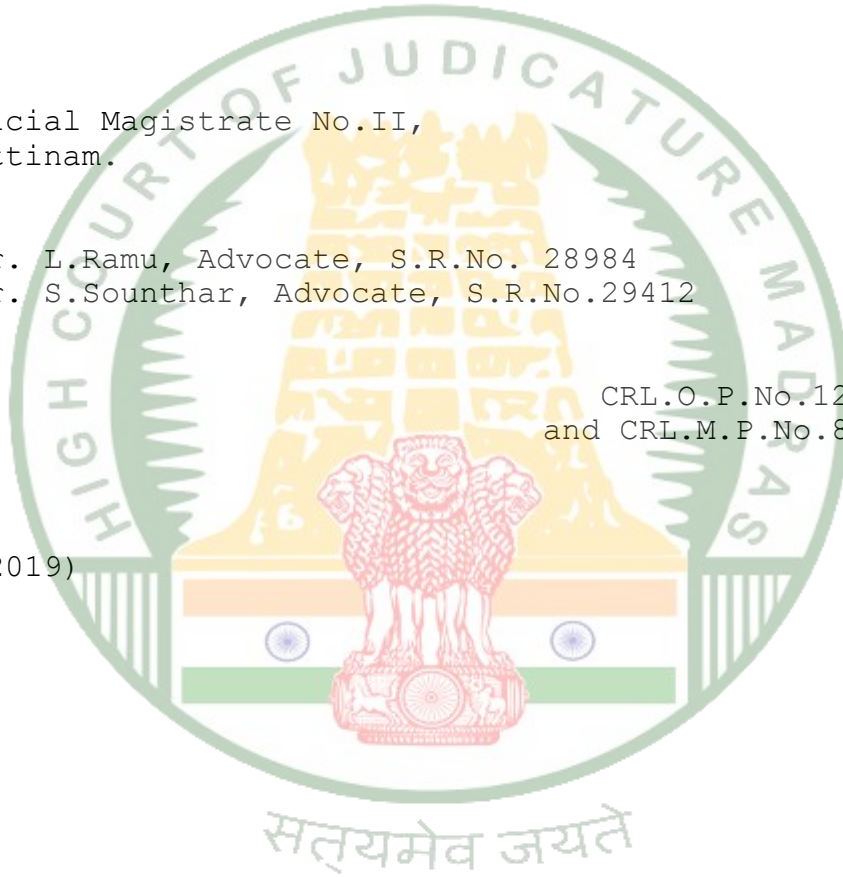
1.The Judicial Magistrate No.II,
Nagapattinam.

+1cc to Mr. L.Ramu, Advocate, S.R.No. 28984

+1cc to Mr. S.Sounthar, Advocate, S.R.No.29412

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CP (CO)
GN(22/05/2019)



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