

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.23244 of 2017

and

Crl.M.P.No.13537 of 2017 & 13538/17

1.S.Prasanna

2.Srinivasa Rao

3.Padmavathi

.... Petitioners/Respondents

Vs

Priyanka

...Respondent/Petitioner

Prayer :- Criminal Original Petition filed under Section 482 Cr.P.C. pleaded to call for the records of the proceedings in D.V.C.No.43 of 2017 on the file of the XXIII Metropolitan Magistrate Court at Saidapet and quash the same.

For Petitioners: Mr.J.Saravanel

For Respondent : Mrs.D.Thenmozhi for
M/s.Auxilia Peter

O R D E R

This petition has been filed to quash the proceedings in D.V.C.No.43 of 2017, on the file of the XXIII Metropolitan Magistrate, Saidapet.

2.The petitioners are husband, father-in-law and mother-in-law of the respondent herein. The marriage between the 1st petitioner and the respondent was solemnized on 22.04.2016. After marriage, they were living in a separate house at Bangalore. Since, there was a misunderstanding between them, the 1st petitioner filed a petition in O.P.No.1999 of 2017, seeking divorce before the Principal Judge, Family Court. The respondent also filed O.P.No.324 of 2017 for restitution of conjugal rights. While so, it is alleged that the petitioners along with her husband have abused and tortured her very rudely and driven her from the matrimonial home. Hence, she filed a petition seeking residential rights, compensation and maintenance and to take action as against her husband and her

in-laws under Domestic Violence Act, before the XXIII Metropolitan Magistrate, Saidapet and the same was taken on file in D.V.C.No.43 of 2017 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.43 of 2017.

3.Heard both sides.

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.43 of 2017, on the file of the learned XXIII Metropolitan Magistrate, Saidapet, Chennai, 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.43 of 2017, on the file of the learned XXIII Metropolitan Magistrate, Saidapet, Chennai, as ad-interim maintenance, starting from April 2019 onwards, 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.43 of 2017 is pending from the year 2017 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., S.Prasanna is directed to appear before the trial Court on the hearing dates, 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.
rm

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The XXIII Metropolitan Magistrate,
Saidapet.

2. The Chief Metropolitan Magistrate,
Egmore, Chennai.

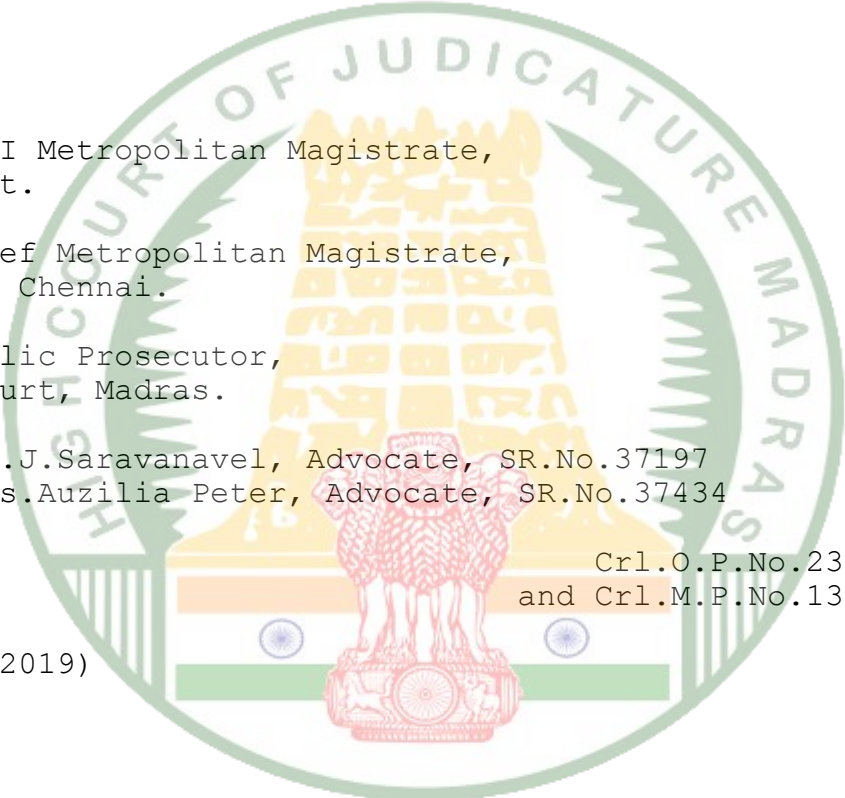
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.J.Saravanavel, Advocate, SR.No.37197

+1cc to M/s.Auzilia Peter, Advocate, SR.No.37434

CrI.O.P.No.23244 of 2017
and CrI.M.P.No.13537 of 2017

Kak(13/06/2019)

The seal of the High Court of Madras is a circular emblem. It features a central illustration of the Lion Capital of Ashoka, which is a four-lion capital carved from a single block of dark soapstone. The lions are facing outwards in four directions. The capital is set on a base of four elephants. The entire emblem is surrounded by a green border containing the text 'HIGH COURT OF JUDICATURE MADRAS' in white capital letters. Below the emblem, the motto 'सत्यमेव जयते' (Satyameva Jayate) is written in Devanagari script.

सत्यमेव जयते

WEB COPY