

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.13480 of 2017
and Crl.M.P.Nos.8694 & 8695 of 2017

1.Khader Mohideen
2.Mohammed Ibrahim
3.Shahul Hameed
4.Mrs.Parakath Nisha

... Petitioners

Vs.

Mrs.Sumaiya Begum

... Respondent

PRAYER:

Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the Proceedings of the Domestic Violence Case in DVC.No.5 of 2017 pending on the file of Judicial Magistrate Tambaram, Kancheepuram District and quash the same (as null and void).

For Petitioners : Mr.R.Kandasamy

For Respondent : Mr.N.A.Nissar Ahmed

ORDER

This petition has been filed to call for the Proceedings of the Domestic Violence Case in DVC.No.5 of 2017 pending on the file of Judicial Magistrate Tambaram, Kancheepuram District and quash the same (as null and void).

2. The petitioners are the husband and the in-laws of the respondent and the marriage between A1/M.Kadhar Mohideen and the respondent Viz.,M.Sumaiya Begam was solemnized on 05.11.2006. 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.5 of 2017 on the file of the Judicial Magistrate Tambaram, Kancheepuram District 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.5 of 2017 is pending for trial. At this stage, the petitioners herein who are the husband and in-laws of the respondent pray to quash the proceedings in D.V.A.No.5 of 2017.

3. Heard Mr.R.Kandasamy learned counsel for the petitioners and Mr.N.A.Nissar Ahmed learned counsel 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 2 to 4 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 2 to 4/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 2 to 4 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 2 to 4. In the absence of the same, the proceedings as against petitioners 2 to 4 cannot be maintained and consequently, petitioners 2 to 4 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 DVA.No.5 of 2017, on the file of the Judicial Magistrate, Tambaram, Kancheepuram District, insofar as petitioners 2 to 4 alone, 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 on or before 5th of every English Calendar month to the credit of DVA.No.5 of 2017, on the file of the Judicial Magistrate Tambaram, Kancheepuram District, 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 DVA.No.5 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. 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. With the above direction, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

pds/lok

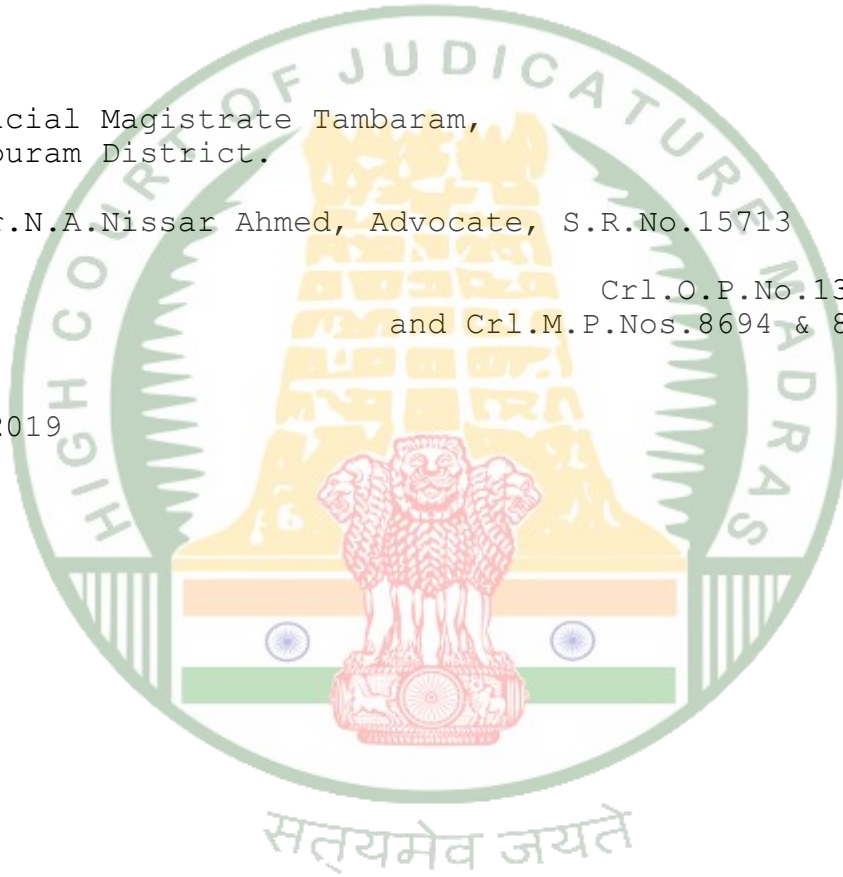
To

The Judicial Magistrate Tambaram,
Kancheepuram District.

+1cc to Mr.N.A.Nissar Ahmed, Advocate, S.R.No.15713

Crl.O.P.No.13480 of 2017
and Crl.M.P.Nos.8694 & 8695 of 2017

SV(Co)
CS/26/03/2019



WEB COPY