

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.18114 of 2017
and CRL.M.P.No.11049 of 2017

1.Shantha B.Nair

2.P.B.Sajee

... Petitioners

Vs.

S.R.Rashmi,

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in D.V.No.19 of 2016, pending on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai as far as the petitioners are concerned and quash the same.

For Petitioners: Mr.K.Balasubramaniam

For Respondent : No appearance

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.No.19 of 2016, filed by the respondent, on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai.

2. The petitioners are in-laws of the respondent herein. The marriage between one Ajee P.B and the respondent was solemnized on 15.03.2006. Out of their wedlock, they were blessed with a male child. While so, it is alleged that the petitioners along with A1 have abused and tortured her very rudely and driven her from the matrimonial home along with her child. 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 IX Metropolitan Magistrate, Saidapet, Chennai and the same was taken on file in D.V.C.No.19 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.19 of 2016.

3. Heard the learned counsel for the petitioners. Though notice sent to the respondent, it was returned unserved.

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.19 of 2016, on the file of the learned IX 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.19 of 2016, on the file of the learned IX 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.19 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., Ajee P.B., 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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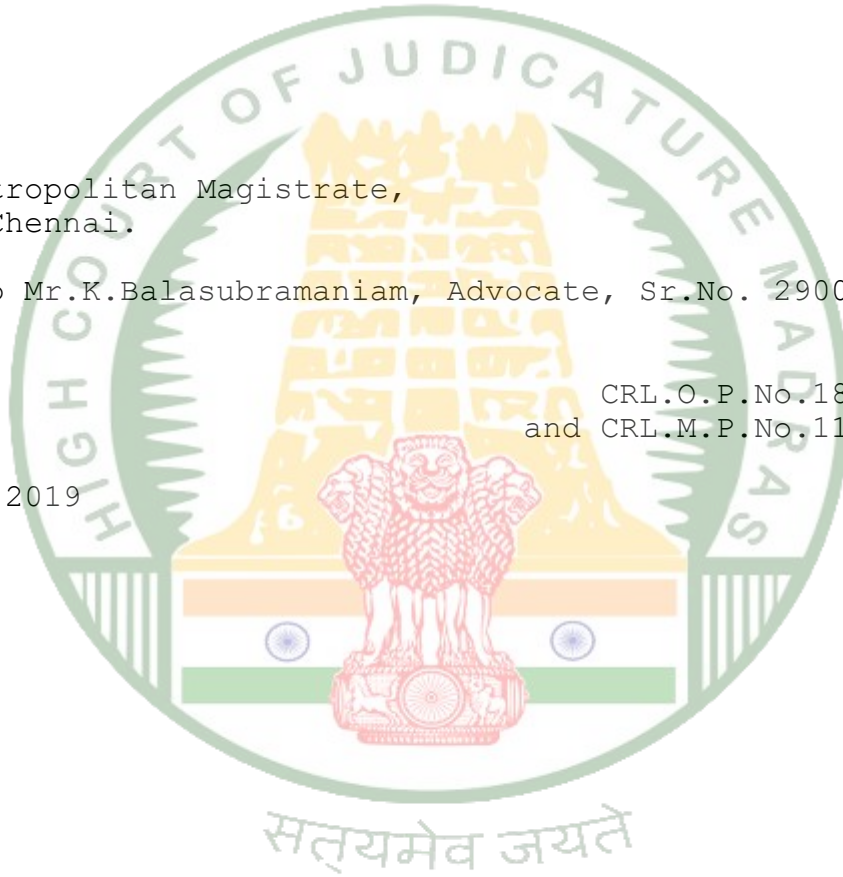
To

The IX Metropolitan Magistrate,
Saidapet, Chennai.

+2 cc's to Mr.K.Balasubramaniam, Advocate, Sr.No. 29002&28657

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and CRL.M.P.No.11049 of 2017

VSNII(CO)
CSL/29.05.2019



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