

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 15.04.2019
CORAM:
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN
Crl.O.P.No.27333 of 2017
and
Crl.M.P.Nos.15651 of 2017 and 5200 of 2019

1.Zareena Begum
2.H.Hyder Khan
3.H.Shakira Begum
4.Jawad Mohiddin Khan
5.Anwar Khan

... Petitioners

Vs

1.A.Fahmeeda Tabassum
2.M.Nabila Tabassum(Minor)
3.M.Aiman Khan(Minor)
(R2 & R3 rep.by mother R1)

... Respondents

Prayer :- Criminal Original Petition filed under Section 482 Cr.P.C. pleaded to call for the records in D.V.C.No.26 of 2017 on the file of the Judicial Magistrate-III, Vellore and quash the same.

For Petitioners : Mr.A.Swaminathan

For Respondents : Mr.Feroz Khan

O R D E R

This petition has been filed to quash the proceedings in D.V.C.No.26 of 2017, pending on the file of the learned Judicial Magistrate-III, Vellore.

2.The petitioners are the in-laws of the 1st respondent herein. The marriage between the complainant and 1st petitioner's son was performed on 25.02.2002. The marriage was registered under the special marriage act. The 1st petitioner's son and 1st respondent resided in Saudi Arabia. Out of their wedlock, they were blessed with two children and both the children studied in Saudi Arabia till March 2016. To pursue their higher studies, they decided to return to India. After returning to India, the 1st respondent lodged the present complaint alleging that the petitioners herein, who were in-laws, harassing her and threatening her for demand of additional dowry. A case was registered in Crime No.85 of 2017 for the offences punishable under Section 498-A and 3 & 4 of Dowry Prohibition Act. After conducting detailed enquiry, the respondent police have closed

the case. Thereafter, the 1st respondent filed maintenance case in M.C.No.7 of 2017 before the Judicial Magistrate, Palamaner, against the 1st petitioner's son. Thereafter, she filed a petition under Domestic Violence Act as against her husband and the petitioners herein before the learned Judicial Magistrate-III, Vellore in D.V.C.No.26 of 2017 and the same is pending for trial. At this stage, the petitioners herein who are the in-laws of the 1st respondent prays to quash the proceedings in D.V.C.No.26 of 2017.

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.26 of 2017, on the file of the learned Judicial Magistrate No.III, Vellore, 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.26 of 2017, on the file of the learned Judicial Magistrate No.III, Vellore 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.26 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., Mahaboob Khan, 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 petitions are also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rm

To

1.The Judicial Magistrate-III,
Vellore.

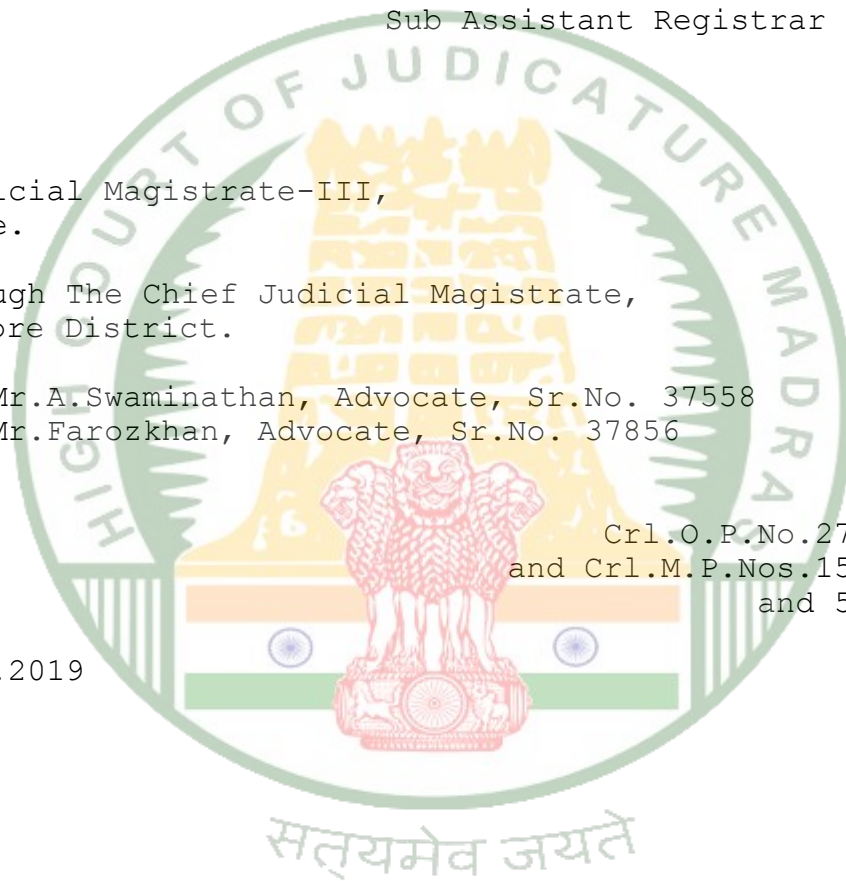
2.do through The Chief Judicial Magistrate,
Vellore District.

+1 cc to Mr.A.Swaminathan, Advocate, Sr.No. 37558

+1 cc to Mr.Farozkhan, Advocate, Sr.No. 37856

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and Crl.M.P.Nos.15651 of 2017
and 5200 of 2019

LN(CO)
CSL/13.06.2019



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