

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.28545 of 2017
and Crl.M.P.Nos.16181 & 16182 of 2017
and 1936 of 2019

1.Loganathan
2.R.Vijayalakshmi ... Petitioners/Respondent

Vs.

Sivashankari ... Respondent/Petitioner

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records to quash the complaint in D.V.C.No.4 of 2017 on the file of the Judicial Magistrate-I, Panruti.

For Petitioners: Mr.E.Ranganayaki

For Respondent : Mr.M.Vijayaraghavan

O R D E R

This petition has been filed to quash the complaint in D.V.C.No.4 of 2017 on the file of the Judicial Magistrate-I, Panruti.

2.The 1st petitioner is the husband and the 2nd respondent is the mother-in-law of the respondent. The marriage between A1/Loganathan and the respondent Viz.,Sivashankari was solemnized on 08.06.2012. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home from May 2013 onwards. Under this circumstance, the respondent herein lodged a complaint as against the petitioner and same was registered in Crime No.11 of 2016 by the second respondent. Thereafter, the respondent/wife had lodged the present complaint under D.V. Act in D.V.No.4 of 2017 before the learned Judicial Magistrate-I, Panruti. The said D.V.A.No.4 of 2017 is pending for trial. At this stage, the petitioners herein who are the husband and mother-in-law of the respondent prays to quash the proceedings in D.V.A.No.4 of 2017.

3.Heard Ms.E.Ranganayaki, learned counsel for the petitioners and Mr.M.Vijayaraghavan, learned counsel appearing for the respondent.

4.It is seen that the relief sought for by the respondent in the domestic violence case can be made and claimed as against her husband, who is already a party in that case. The 2nd petitioner herein is only mother-in-law of the respondent and she is living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against these petitioners 1 & 2/husband and mother-in-law based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the 2nd petitioner 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 2nd petitioner. In the absence of the same, the proceedings as against 2nd petitioner cannot be maintained and consequently, 2nd respondent 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.A.No.4 of 2017, on the file of the Judicial Magistrate Court I, Panruti, only insofar as 2nd petitioner is concerned and on condition that, she shall ensure that the 1st petitioner/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.A.No.4 of 2017, on the file of the Judicial Magistrate Court I, Panruti, 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 1st petitioner/husband of the respondent is concerned, since the impugned proceedings in DVA.No.4 of 2017 is pending, this Court is not inclined to quash the proceedings. Accordingly, this Criminal Original Petition is dismissed insofar as 1st petitioner is concerned. However, the domestic violence case 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 1st petitioner/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.In the result, this Criminal Original Petition stands allowed in respect of the 2nd petitioner and dismissed in respect

of the 1st petitioner. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

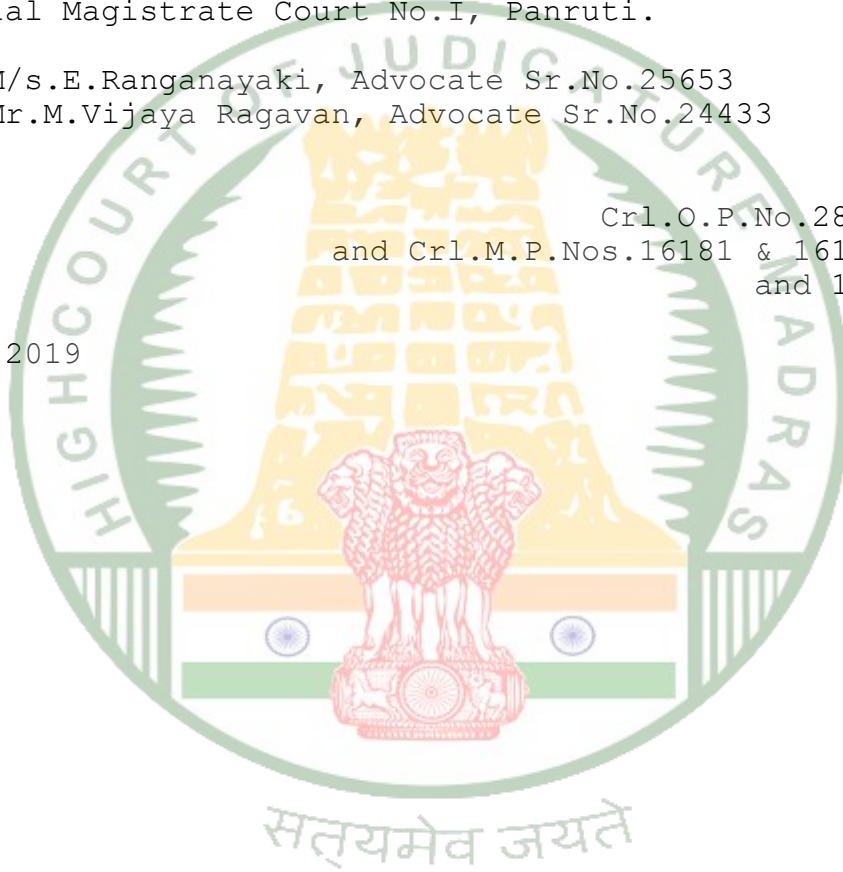
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To
The Judicial Magistrate Court No.I, Panruti.

+1 cc to M/s.E.Ranganayaki, Advocate Sr.No.25653
+1 cc to Mr.M.Vijaya Ragavan, Advocate Sr.No.24433

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SJ(CO)
CSL/04.04.2019



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