

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.03.2019

Coram

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.29831 of 2017

and

Crl.M.P.No.16731 of 2017

1. Gunasegaran
2. G.Shanthi
3. G.Preetha
4. D.Rajesh

... Petitioners

Vs.

1. Vijayapriya
2. G.Ganesh

... 1st Respondent

... 2nd Respondent

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceedings in D.V.C.No.74 of 2017 on the file of the Additional Mahila Court, Salem, insofar as the petitioners who are respondents 2 to 5 in D.V.C.No.74 of 2017.

For Petitioners : Mr.Giridhar and Sai

For R1 : Mr.Karan

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in D.V.C.No.74 of 2017 on the file of the Additional Mahila Court, Salem.

2. The petitioners are in-laws of the first respondent and the second respondent is the husband of the first respondent. The marriage between the first and second respondent was solemnized on 07.05.2008 and thereafter, due to matrimonial disputes, the first respondent and her husband/second respondent were living separately from the matrimonial home. Under this circumstance, the first respondent herein has lodged a complaint in D.V.C.No.74 of 2017 on the file of the Additional Mahila Court, Salem and implicated the petitioners and the second respondent as parties to the petition and sought action as

against them under Domestic Violence Act. The said D.V.C.No.74 of 2017 is pending for trial. At this stage, the petitioners pray to quash the complaint in D.V.C.No.74 of 2017.

3. Heard Mr.Giridhar and Sai, learned counsel for the petitioners and Mr.Karan, learned counsel for the first respondent.

4. It is seen that the relief sought for by the first 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 first respondent and they are living separately. As such, the protection order sought for by the first respondent herein in the domestic violence case against the petitioners, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners against the first 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 the petitioners. In the absence of the same, the proceedings as against the 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.74 of 2017 on the file of the Additional Mahila Court, Salem, insofar as the petitioners are concerned, on condition that they shall ensure that the husband of the first respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of D.V.C.No.74 of 2017 on the file of the Additional Mahila Court, Salem, as ad-interim maintenance, without prejudice to both the parties, failing which, this order shall stand automatically cancelled. On such deposit being made, the first respondent is entitled to withdraw the same.

6. Insofar as the husband of the first respondent is concerned, since the impugned proceedings in D.V.C.No.74 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 two months from the date of receipt of a copy of this order. The husband of the first respondent is directed to appear before the trial Court on the next hearing date, failing which, the first respondent is at liberty to approach this Court.

7. In the result, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

raja

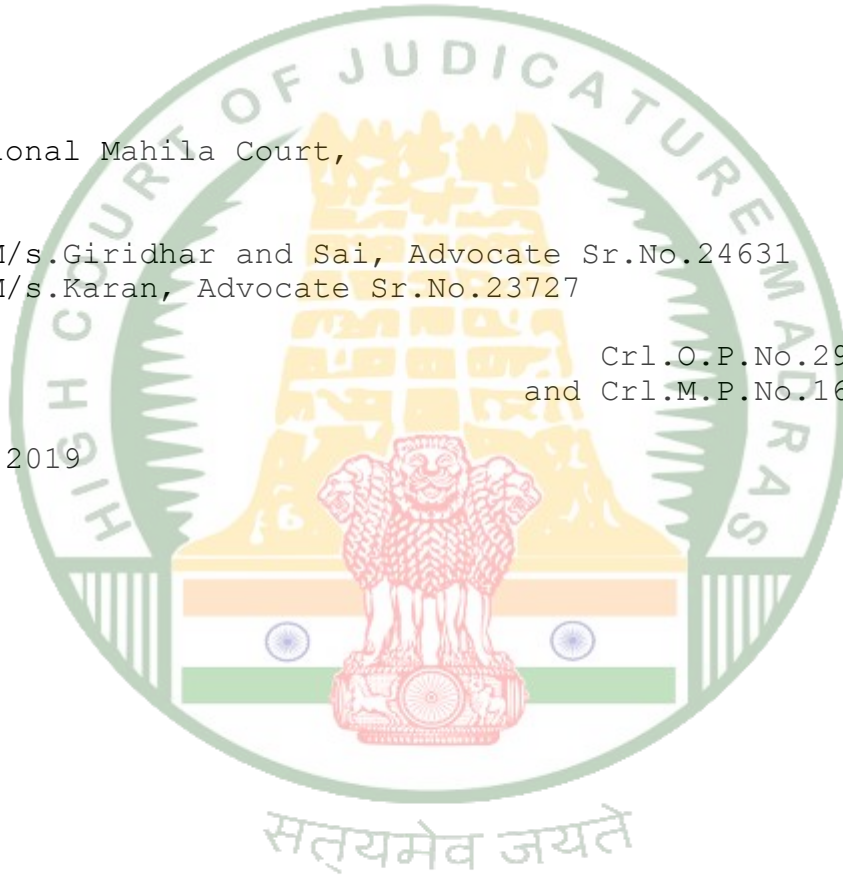
To

The Additional Mahila Court,
Salem.

+1 cc to M/s.Giridhar and Sai, Advocate Sr.No.24631
+1 cc to M/s.Karan, Advocate Sr.No.23727

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and CrI.M.P.No.16731 of 2017

PPA (CO)
CSL/08.04.2019



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