

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2019

CORAM:

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

CRL.O.P.No.24154 of 2018
and CRL.M.P.No.13642 of 2018

1.Kasthuri

2.Saravanan

... Petitioners

Vs.

1. Kirthika

2. Veerappan @ Manoharan

...Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to D.V.A.No.15 of 2018 pending on the file of the Judicial Magistrate No.VI, Coimbatore and quash the same.

For Petitioners : M/s A. Sundaravadhanan

For Respondent-1 : No Appearance

For Respondent-2 : Service Awaited

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.A.No.15 of 2018, filed by the 1st respondent herein, pending on the file of the Judicial Magistrate No.VI, Coimbatore and quash the same.

2. The petitioners are in-laws of the 1st respondent and the marriage between 2nd respondent husband and the 1st respondent wife was solemnized on 09.09.2015. Thereafter, due to matrimonial disputes the 1st respondent wife and her husband were living separately from the matrimonial home. Under these circumstances, the 1st respondent herein filed a petition under Domestic Violence Act in D.V.A. No.15 of 2018 on the file of the Judicial Magistrate No.VI, Coimbatore and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.A.15 of

2018 is pending for trial. At this stage, the petitioners herein who are the in-laws of the respondent pray to quash the proceedings in D.V.A.No.15 of 2018.

3. Heard M/s A.Sundaravadhanan learned counsel for the petitioner and private notice has been served on the 1st respondent wife despite none appeared on behalf of the 1st respondent and notice sent to the 2nd respondent, service awaited and proof of service filed.

4. It is seen that the relief sought for by the 1st 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 1st respondent and they are living separately. As such, the protection order sought for by the 1st 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 1st 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 DVA.No.15 of 2018, on the file of the Judicial Magistrate No.VI, Coimbatore, insofar as these petitioners are concerned, on condition that, they shall ensure that Veerappan/the 2nd respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of DVA.No.15 of 2018, on the file of the Judicial Magistrate Court No.VI, Coimbatore, 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 the husband of the 1st respondent is concerned, since the impugned proceedings in DVA.No.15 of 2018 is pending from the year 2018 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/Veerappan of the 1st respondent 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 closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

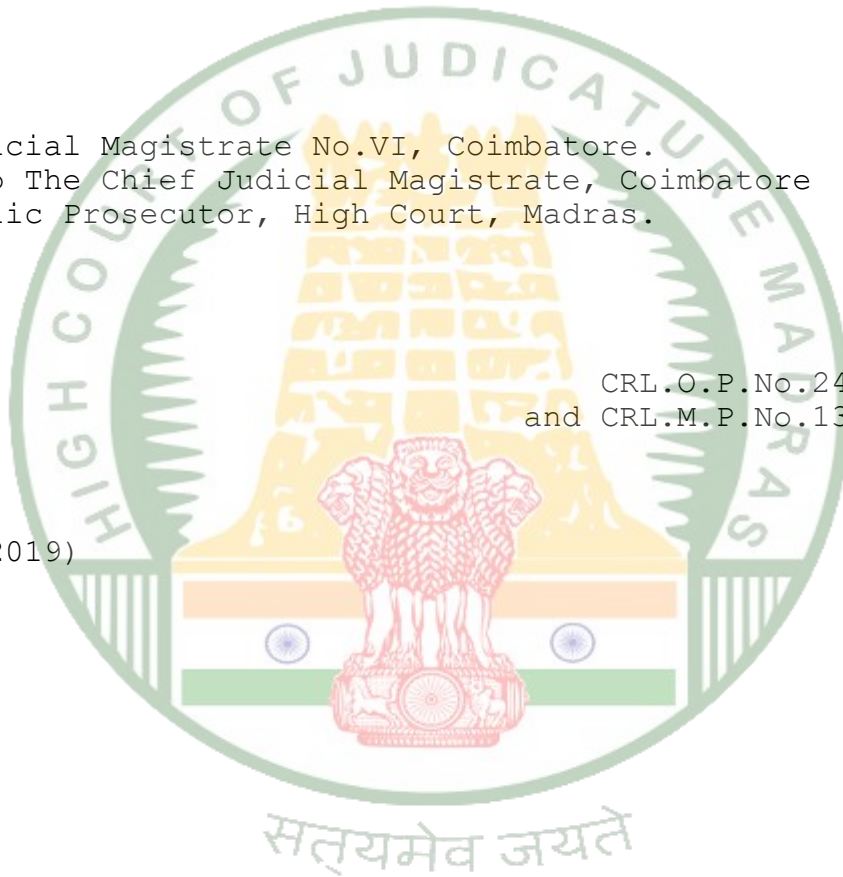
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To

- 1.The Judicial Magistrate No.VI, Coimbatore.
2. Do Thro The Chief Judicial Magistrate, Coimbatore
- 3.The Public Prosecutor, High Court, Madras.

CRL.O.P.No.24154 of 2018
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GJ(CO)
SP(22/04/2019)



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