

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.23768 of 2018
and Cr1.M.P.No.13410 of 2018

1.K.Vinoth Kumar
2.K.P.Krishnamoorthy
3.Hemavathi
4.Barathi
5.Arulmozhi @ Kuttyma Petitioners

Vs.

J.SarojiniRespondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the proceedings in D.V.O.P.No.14 of 2018 on the file of the learned Judicial Magistrate No.1, Vellore and quash the same insofar as the petitioners are concerned.

For Petitioners: Mr.A.Saravanan

For Respondent : No Appearance

ORDER

This petition has been filed to call for the records relating to the proceedings in D.V.O.P.No.14 of 2018 on the file of the Learned Judicial Magistrate No.1, Vellore and quash the same.

2.The petitioners are in-laws of the respondent and the marriage between A1/Vinoth Kumar and the respondent Viz.,Sarojini was solemnized on 20.08.2003. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home. Under this circumstance, the respondent herein filed a petition under Domestic Violence Act in D.V.O.P. No.14 of 2018 on the file of the Judicial Magistrate No.1, Vellore and implicated the petitioners as

parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.O.P.14 of 2018 is pending for trial. At this stage, the petitioners herein who are the husband and in-laws of the respondent pray to quash the proceedings in D.V.O.P.No.14 of 2018.

3. Heard Mr.A.Saravanan, the learned counsel for the petitioners. None appeared 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. Petitioners 2 to 5 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 petitioners 2 to 5 / in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by petitioners 2 to 5 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 petitioners 2 to 5. In the absence of the same, the proceedings as against petitioners 2 to 5 cannot be maintained and consequently, petitioners 2 to 5 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 DVOP.No.14 of 2018, on the file of the learned Judicial Magistrate Court No.1, Vellore, insofar as petitioners 2 to 5 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) before 5th of every English Calendar month to the credit of DVOP.No.14 of 2018, on the file of the Judicial Magistrate Court No.1, 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 DVOP.No.14 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. A1/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 disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

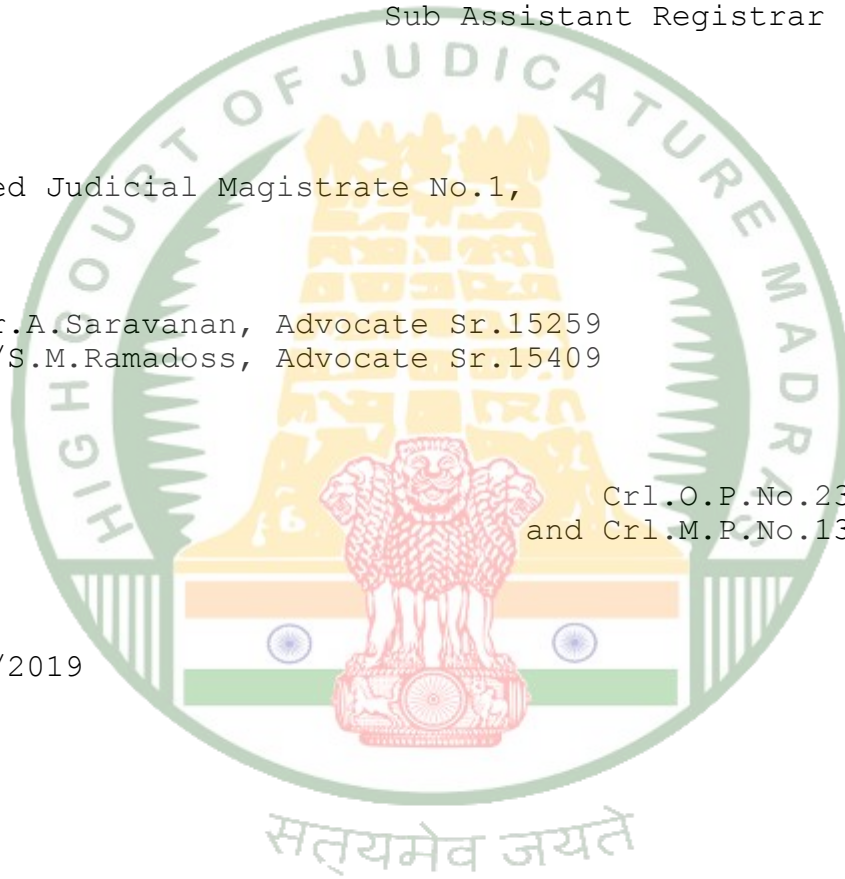
pds/lok
To

The learned Judicial Magistrate No.1,
Vellore.

+1cc to Mr.A.Saravanan, Advocate Sr.15259
+1cc to M/S.M.Ramadoss, Advocate Sr.15409

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BS(CO)
srg 21/03/2019



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