

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2019

CORAM:

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

CRL.O.P.No. 27704 of 2018

and

CRL.M.P.No. 16011 of 2018

1.M.Y.Uvaraj

2.M.MageshwariPetitioners/Respondent

Vs.

1.S.Poongodi

2.Y.Harichaaran

3.Y.P.ManasiRespondents/Complainants

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in respect of the complaint filed in D.V.C.No.1 of 2018 on the file of Mahila Court, Alikulam and quash the same.

For Petitioners: M/s.M.E.V.Thulasi

For Respondent : M/s.R.Mahalakshmi for R1

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.1 of 2018, filed by the first respondent herein, pending on the file of the Mahila Court, Alikulam, Chennai.

2. The second petitioner is in-law of the first respondent and the marriage between the first petitioner/Uvaraj and the first respondent Viz.,Poongodi was solemnized on 22.11.2009. Thereafter, due to matrimonial disputes the first respondent and her husband were living separately from the matrimonial home. Under this circumstance, the first respondent herein filed a petition under Domestic Violence Act in D.V.C. No.1 of 2018 on the file of the Mahila Court, Alikulam, Chennai and implicated

the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.1 of 2018 is pending for trial. At this stage, the petitioners herein who are the husband and in-laws of the first respondent pray to quash the proceedings in D.V.C.No.1 of 2018.

3. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents.

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 husband and in-law 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 second petitioner/in-law, 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 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 Petition is dismissed insofar as the first petitioner is concerned. This Court is inclined to quash the proceedings in DVC.No.1 of 2018, on the file of the Mahila Court, Alikulam, Chennai, insofar as the second petitioner is concerned, on condition that, they shall ensure that the first petitioner/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 DVC.No.1 of 2018, on the file of the Mahila Court, Alikulam, Chennai, 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 first petitioner/husband of the first respondent is concerned, since the impugned proceedings in DVC.No.1 of 2018 is pending from the year 2018 onwards, it would be appropriate to direct the learned Judge, Mahila Court, Alikulam, Chennai, to complete the trial within a period of three months from the date of receipt of copy of this order. First petitioner/husband of the first 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. Consequently, connected miscellaneous petitions are closed.

lpp

Sd/-
Assistant Registrar(CS III)

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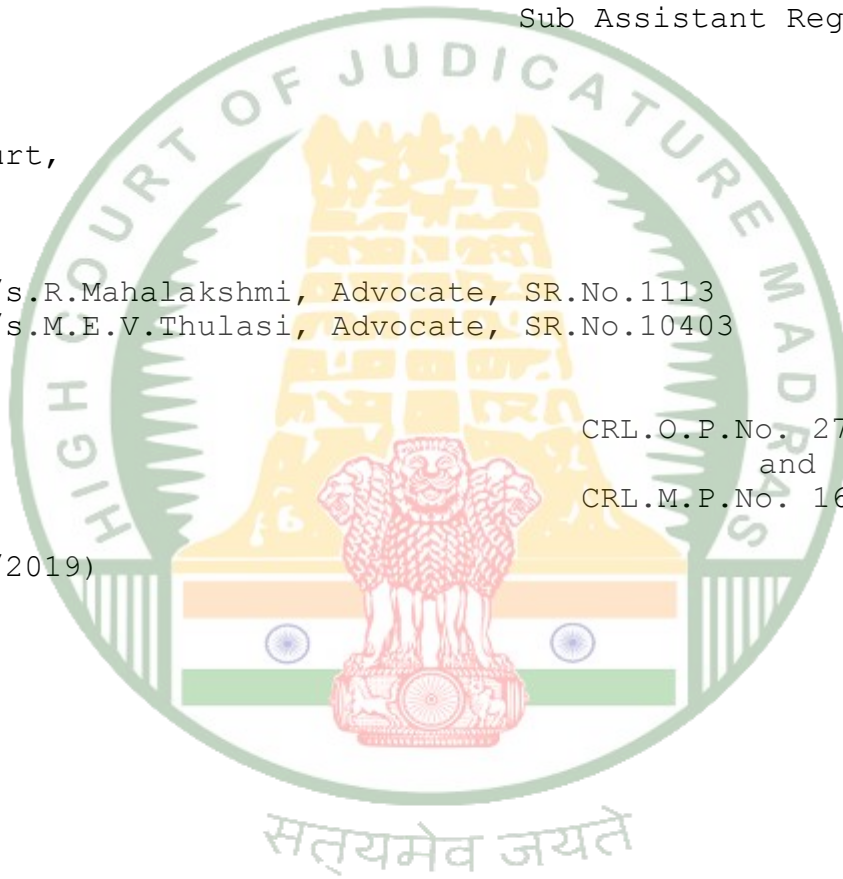
Sub Assistant Registrar

To
The Judge,
Mahila Court,
Alikulam,
Chennai.

+1cc to M/s.R.Mahalakshmi, Advocate, SR.No.1113
+1cc to M/s.M.E.V.Thulasi, Advocate, SR.No.10403

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Kak(03/05/2019)



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