

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.NO.29300 OF 2018

AND

CRL.M.P.NOS.17181 & 17182 OF 2018

1.N.Nayeemulla Sherif
2.A.Niyamacholla Sherif
3.M.Zeenath Sherif
4.N.Jharulla Sherif
5.N.Naseema Begum ... Petitioners

Vs.

Shahina Begum ... Respondent

PRAYER:

Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in D.V.No.97 of 2018 pending on the file of the learned Additional Mahila Court, Allikulam Complex, Egmore and quash the same.

For Petitioners : Mr.S.N.Subramani

For Respondent : Mr.A.Ajimath Begum

ORDER

This petition has been filed to call for the records pertaining to D.V.No.97 of 2018 pending on the file of the Additional Mahila Court, Allikulam Complex, Egmore and quash the same as illegal, incompetent and without jurisdiction by allowing the present criminal original petition.

2.The first petitioner is the husband and the petitioners 2 to 5 are in-laws of the respondent and the marriage between the first petitioner and the respondent was solemnized on 04.09.2011. 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.No.97 of 2018 on the file of the Additional Mahila Court, Allikulam Complex, Egmore and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.No.97 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.No.97 of 2018.

3. Heard Mr.S.N.Subramani, learned counsel for the petitioners and Mr.A.Ajimath Begum, learned counsel appearing 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. The 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 these 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 the petitioners 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 the petitioners 2 to 5 herein. In the absence of the same, the proceedings as against the petitioners 2 to 5 cannot be maintained and consequently, petitioners 2 to 5 herein 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.No.97 of 2018, on the file of the Additional Mahila Court, Allikulam Complex, Egmore, insofar as petitioners 2 to 5 are concerned, on condition that, they shall ensure that the first 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.No.97 of 2018, on the file of the Additional Mahila Court, Allikulam Complex, Egmore, 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 first petitioner is concerned, since the impugned proceedings in D.V.No.97 of 2018 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 first petitioner 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 partly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

nl

To

1. The Additional Judge,
Mahila Court, Allikulam Complex,
Egmore, Chennai.

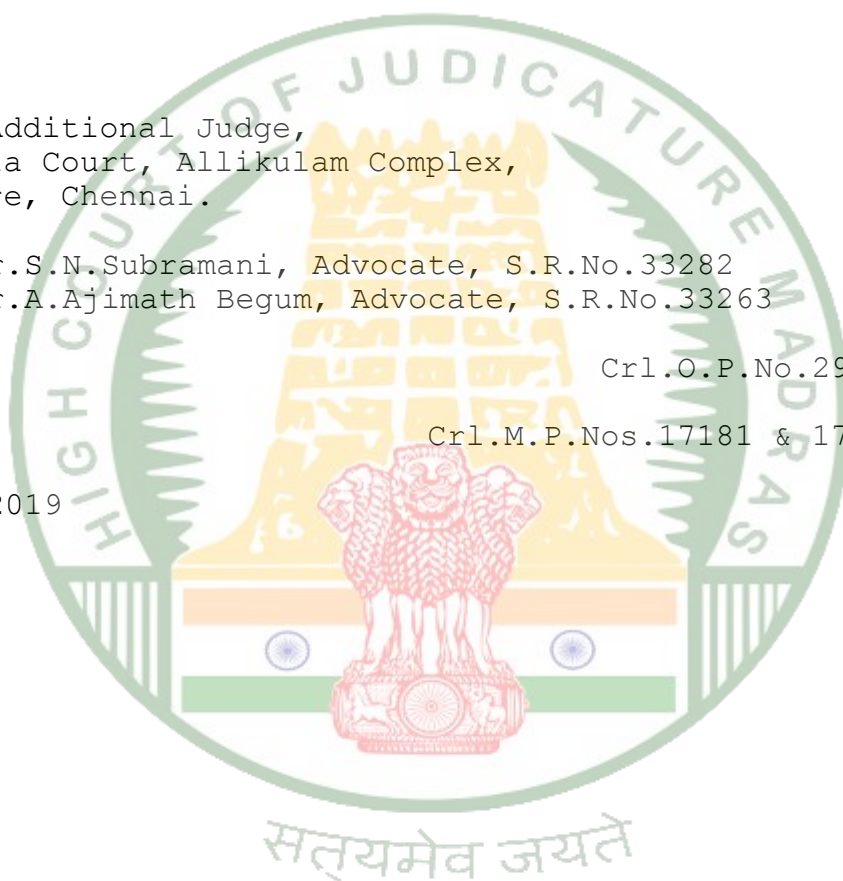
+1cc to Mr.S.N.Subramani, Advocate, S.R.No.33282

+1cc to Mr.A.Ajimath Begum, Advocate, S.R.No.33263

CrI.O.P.No.29300 of 2018
and

CrI.M.P.Nos.17181 & 17182 of 2018

CS/10/06/2019



WEB COPY