

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2020

CORAM:

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

CRL. O.P. No.1054 of 2020
and CRL. M.P. No. 642 of 2020

Hemalatha
W/o. Balasubramanian,
Kaveri Nagar, Kennadi Nagar,
Sooramangalam, Salem - 5. Petitioner

Vs.

G.Narmatha,
W/o. Dinesh,
No.124/63 B, Chinna Mariyamman Koil Theru,
Puthupettai,
Krishnagiri District.Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records relating to D.V.C. No.76 of 2019 pending on the file of the Additional Mahila Court (Magistrate Level), Krishnagiri and quash the same.

For Petitioner : Mr. R.Sankarasubbu

For Respondent : Mr. P.M.Duraisamy

O R D E R

This Criminal Original Petition has been filed to call for the records relating to D.V.C. No.76 of 2019 pending on the file of the Additional Mahila Court (Magistrate Level), Krishnagiri and quash the same.

2. The petitioner is the mother-in-law of the respondent and the marriage between one Dinesh and the respondent Viz., Narmatha was solemnized on 08.06.2014. 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.C. No.76 of 2019 on the file of the Additional Mahila Court (Magistrate level) Krishnagiri and implicated the petitioner as party to the petition and sought action as against them under Domestic Violence Act. The said D.V.C. No.76 of 2019 is pending for trial. At this stage, the petitioner herein who is the mother-in-law of the respondent pray to quash the proceedings in D.V.C. No.76 of 2019.

3. Heard Mr. R.Sankarasubbu, learned counsel appearing for the petitioner and Mr. P.M.Duraisamy, 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 petitioner herein is mother-in-law of the respondent and she is living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against the petitioner, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioner 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 petitioner. In the absence of the same, the proceedings as against the petitioner cannot be maintained and consequently, the petitioner 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.76 of 2019 pending on the file of the Additional Mahila Court (Magistrate Level), Krishnagiri, in so far as the petitioner is concerned, on condition that, she shall ensure that the 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 D.V.C. No.76 of 2019 pending on the file of the Additional Mahila Court (Magistrate Level), Krishnagiri, 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. In so far as husband of the respondent is concerned, since the impugned proceedings in D.V.C. No.76 of 2019 is pending from the year 2019 onwards, it would be appropriate to direct the trial Court to complete the trial within a period of six months from the date of receipt of copy of this order. The 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 allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

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Sub Assistant Registrar

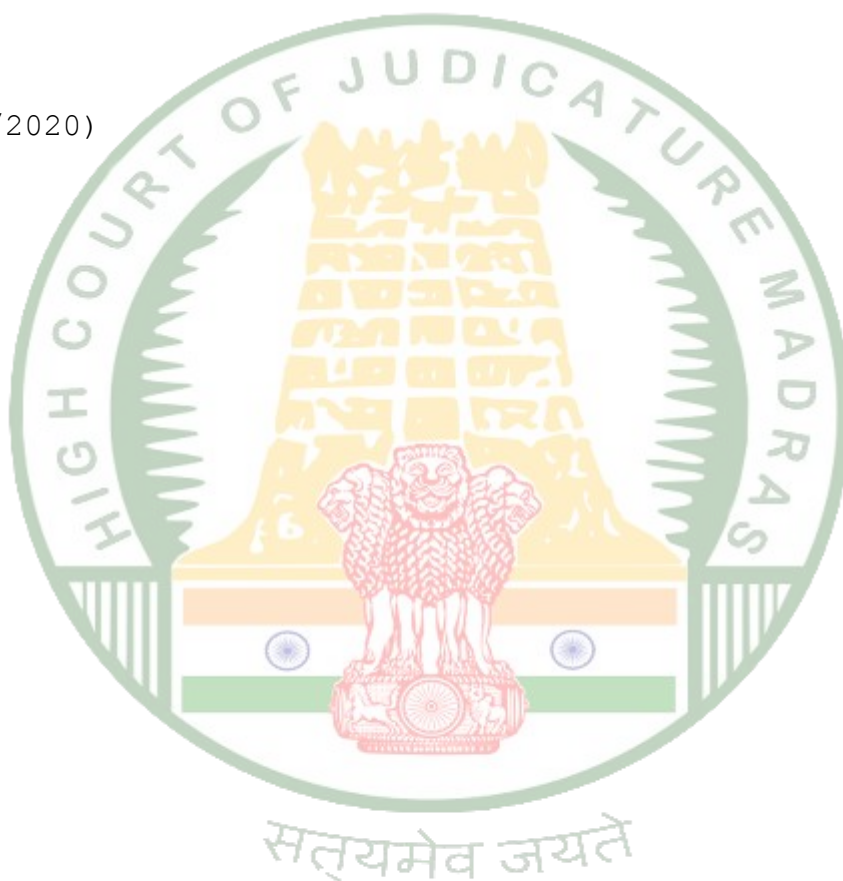
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To

1. The Additional Mahila Court (Magistrate Level),
Krishnagiri.

CRL. O.P. No.1054 of 2020
and CRL. M.P. No. 642 of 2020

SPD (CO)
GMY (28/10/2020)



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