

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2020
CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.NO.23724 OF 2015

S.Nirmala

... Petitioner/Respondent

Vs.

D.Prathiba

.... Respondent/Petitioner

Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records of the case in D.V.A.No.67 of 2014 on the file of the learned Judicial Magistrate No.VI, Coimbatore, quash the same.

For Petitioner : Mr.P.Rajendra Kumar
For Respondent : Ms.Vrindha Ramesh
Legal Aid Counsel

ORDER

For the sake of convenience, the parties will be referred to by their names. Prathiba and Divakaran loved each other and they got married on 18.02.2010. After marriage, the couple lived separately for sometime and thereafter, they lived in the matrimonial home along with Divakaran and his mother Nirmala in Chennai.

2. It is the case of Prathiba that she was subjected to cruelty both by her husband and her mother-in-law and was driven away from the matrimonial home and therefore, she is living with her sister in Coimbatore. Under such circumstances, Prathiba filed D.V.A.No.67 of 2014 before the Judicial Magistrate No.VI, Coimbatore, against her husband Divakaran and her mother- in-law Nirmala for various reliefs under the Domestic Violence Act, for quashing which, Nirmala is before this Court.

3. Notice was served on Prathiba. But, since she did not enter appearance, Ms.Vrindha Ramesh, Advocate, has been nominated by the High Court Legal Services Authority to represent her.

4. Heard Mr.P.Rajendra Kumar, learned counsel for Nirmala and Ms.Vrindha Ramesh, learned Legal Aid counsel for Prathiba.

5. Learned counsel for Nirmala submitted that Nirmala had no role in the marital affairs of her son and daughter-in-law and that she has been unnecessarily dragged into the litigation by her daughter-in-law.

6. Per contra, learned legal aid counsel for Prathiba refuted the said allegations.

7. This Court, carefully perused the petition in D.V.A.No.67 of 2014 filed by Prathiba.

8. A reading of the petition shows that after marriage Divakaran and Prathiba lived in Chennai with Nirmala; in January 2011, Nirmala suffered a fracture in her leg, for which, Prathiba obtained a loan of Rs.3,00,000/- for treatment; Prathiba and her mother took care of Nirmala till she became completely alright; after that, neither her husband Divakaran nor Nirmala came forward to return the amount that was spent by Prathiba. Notwithstanding that, they both had even taken away her jewels also. Since there are prima facie materials in the petition filed by Prathiba, the proceedings cannot be quashed at the threshold.

9. Learned counsel for Nirmala submitted that on account of old age and physical ailment, she is not able to attend the proceedings in Coimbatore.

10. In the result, this Criminal Original Petition is dismissed. It is reported that the case has been transferred from the Judicial Magistrate Court No.VI, Coimbatore to Special Court for DV Act cases (Magisterial Level), Coimbatore, which is the trial Court now. Nirmala is directed to appear before the trial Court on 09.11.2020 and execute a bond for Rs.10,000/- under Section 88 Cr.P.C. without sureties. Thereafter, her presence before the trial Court can be dispensed with, provided she engages an Advocate with Special Vakalat to represent her. She shall also file an affidavit that she will not dispute her identity and that the counsel appointed by her will cross-examine the witnesses in her absence without adopting dilatory tactics. Whenever the trial Court requires the presence of Nirmala, it can accordingly inform the counsel appointed by her and Nirmala shall appear before the trial Court.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sni

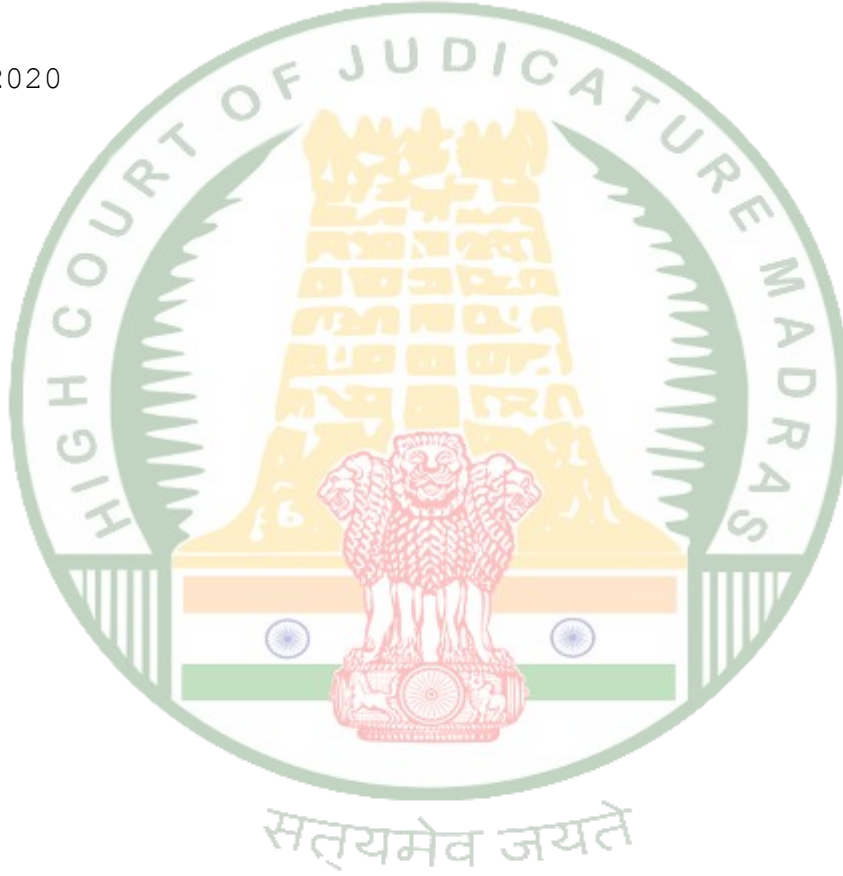
To

1. The Judicial Magistrate No.VI,
Coimbatore.
2. Special Court for D.V Act cases,
Magisterial Level,
Coimbatore.

+lcc to Mr.P.Rajendra Kumar, Advocate, S.R.No.32579

Crl.O.P.No.23724 of 2015

KJ(CO)
CS/03/11/2020



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