

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.1468 of 2020
and
Crl.M.P.Nos.881 & 883 of 2020

Dharani,
W/o.Late Mr.Ulaganathan,
No.51, Selliamman Koil Street,
Meenatchi Nagar, Pallavaram,
Chennai - 45. Petitioner/6th Respondent

Vs.

Jayapriya,
W/o.L.Sundar,
No.7, K.S.S. Street,
Mannargudi Town,
Mannargudi,
Thiruvarur District. - 614 001. Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned complaint in D.V.C.No.3 of 2018 pending on the file of the Judicial Magistrate-I, Mannargudi and quash the same.

For Petitioner : Mr.K.Saravanan

For Respondent : No appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.3 of 2018, filed by the respondent herein, pending on the file of the Judicial Magistrate-I, Mannargudi.

2. The petitioner is the distance relative of the respondent's husband. The marriage between Al/Sundar and the respondent Viz., Jayapriya was solemnized on 09.04.2002. 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.3 of 2018 on the file of the Judicial Magistrate-I, Mannargudi and implicated the petitioner as parties to the petition and sought action as against them under Domestic Violence Act.

The said D.V.C.No.3 of 2018 is pending for trial. At this stage, the petitioner herein is the distance relative of the respondent's husband pray to quash the proceedings in D.V.C.No.3 of 2018.

3. Heard Mr.K.Saravanan, learned counsel for the petitioner. There is no representation on behalf of 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 only the distance relative of the respondent's husband 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 this 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.3 of 2018, on the file of the Judicial Magistrate Court No.I, Mannargudi, insofar as the petitioner is concerned, on condition that, she shall ensure that the Al/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.3 of 2018, on the file of the Judicial Magistrate Court No.I, Mannargudi, 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 Al/husband of the respondent is concerned, since the impugned proceedings in D.V.C.No.3 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 six months from the date of receipt of copy of this order. Al/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 petitions are closed.

Sd/-
Assistant Registrar (ADI MDU)

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Sub Assistant Registrar

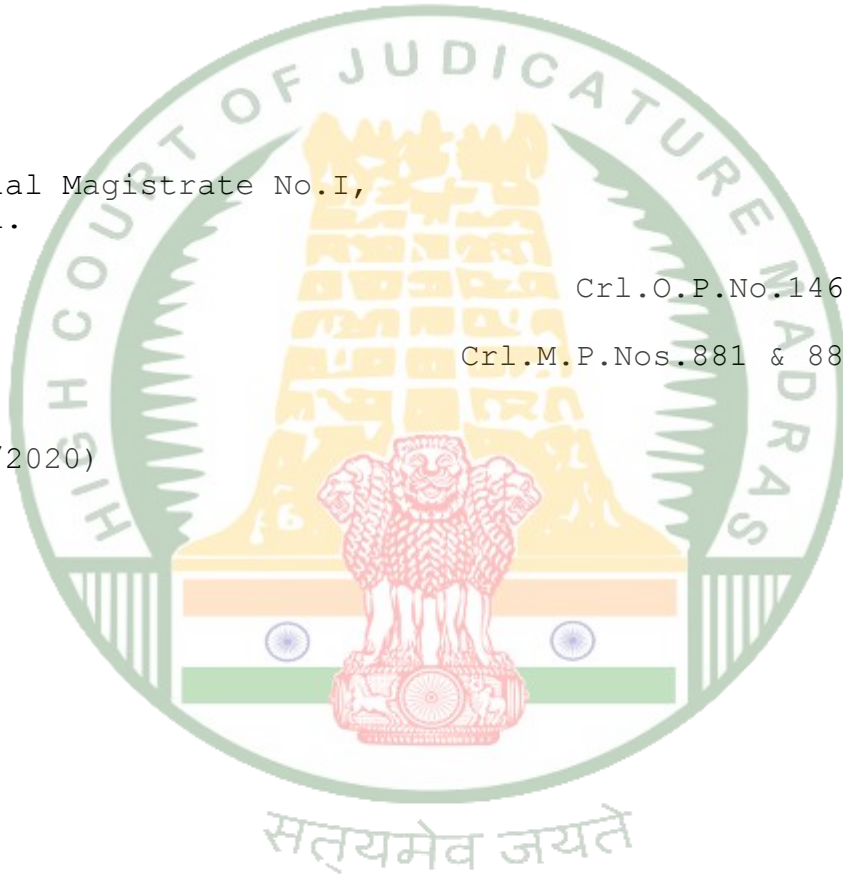
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To

The Judicial Magistrate No.I,
Mannargudi.

CrI.O.P.No.1468 of 2020
and
CrI.M.P.Nos.881 & 883 of 2020

SKS (CO)
GMY (24/09/2020)



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