

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.O.P.No.33040 of 2013

and

M.P.Nos.1 & 2 of 2013

1.Sivaprakasam

2.Menaka

... Petitioners

-vs-

S.Suma

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to proceedings in S.T.C.No.299 of 2013 on the file of the learned Judicial Magistrate, Alandur and quash the entire proceedings against the petitioners.

For Petitioners : Mr.S.Sairaman

ORDER

The respondent filed a complaint under Section 12 of the Protection of Women for Domestic Violence Act 2005, before the Protection Officer viz., Judicial Magistrate, Alandur, The learned Magistrate took cognizance of the complaint on file in S.T.C.No.299 of 2013 and sent summons to the petitioners. The husband of the petitioner is A1 and these petitioners are arrayed as A2 and A3 in the complaint. After receiving summons, A2 and A3, who are petitioners herein have filed the present petition seeking to quash the complaint as against them.

2.The learned counsel for the petitioners would submit that the petitioners herein are father-in-law and mother-in-law of the defacto complainant and they were senior citizens. He further submitted that there is no specific overt act as against these petitioners and the cause of action has also not taken place within this jurisdiction. As per the complaint, the cause of action had taken place at Bangalore. He would further submit that the defacto complainant's husband/A1 is not before the Court and only the in-laws are before this Court. The respondent can claim any maintenance or relief only from her

husband/A1 and not from her in-laws. Therefore, this petition is not maintainable and it is liable to be quashed.

3. None appeared on behalf of the respondent.

4. Heard the learned counsel for the petitioners and perused the records.

5. The contention of the learned counsel for the petitioner with regard to jurisdiction is not acceptable since Section 27(1)(a) clearly says that jurisdiction falls where the victim temporarily or permanently resides. Though, the cause of action took place at Bangalore, it does not mean that this Court has no jurisdiction, because the respondent is now residing at Chennai. The contention of the learned counsel for the petitioners that the respondent cannot seek any shared household rights from the petitioners since the petitioners and the respondent and A1 were living separately in Bangalore. Even if any relief is sought for by the respondent, it can be made only from her husband/A1 and not from the petitioners herein. He further submitted that there is no material evidence to prove that the petitioners have harassed the respondent. Whether, the respondent has any shared household right, whether the petitioners are residing with the respondent under the same roof or different roof are the matters to be tested during the trial and can be decided only after the trial and not at this stage. No complaint can be partially quashed since the relief of maintenance cannot be granted against these petitioners and can be granted only against the husband alone. On careful reading of the complaint, there are allegations as against these petitioners. Therefore, this Court does not find any ground to quash the complaint and the same is liable to be dismissed. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are also dismissed.

6. Since the matter is pending from the year 2013 onwards, the learned Judicial Magistrate, Alandur, is directed to dispose of the case in S.C.No.299 of 2013, in accordance with law within a period of three months from the date of receipt of copy of this order.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

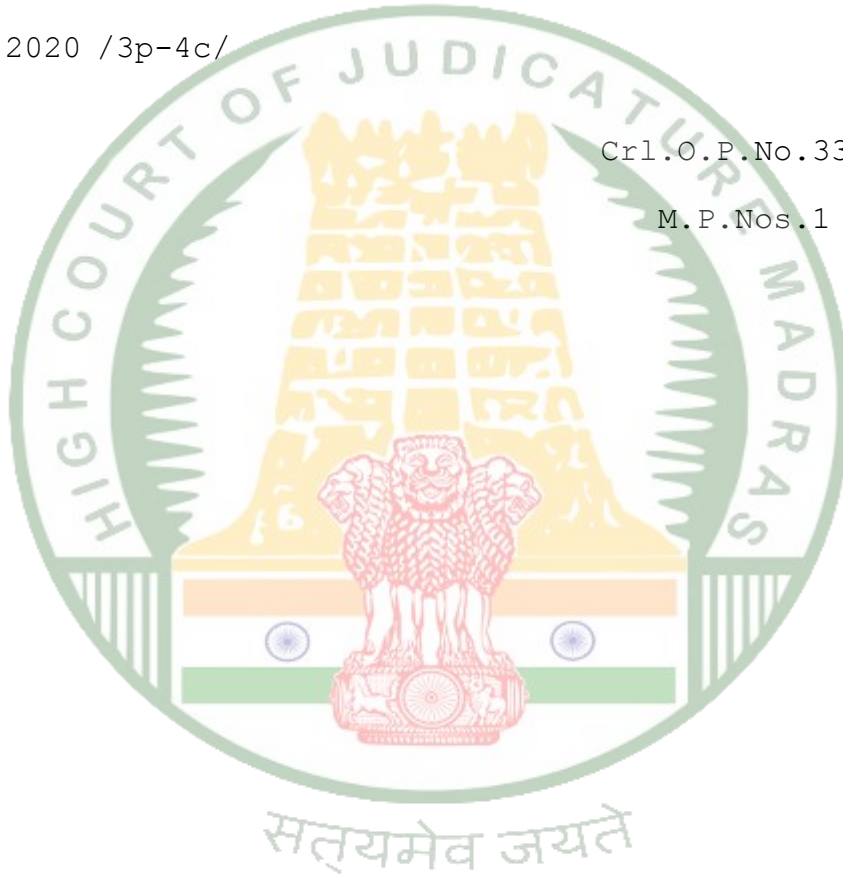
1. The Judicial Magistrate,
Alandur, Chennai.

2.The Public Prosecutor,
High Court, Madras.

+lcc to M/s.S.Sairaman, Advocate Sr.No.7794

AKM/09.03.2020 /3p-4c/

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