

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2020

CORAM:

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

CRL.O.P.No.2308 of 2020
and
CRL.M.P.Nos.1447 & 1448 of 2020

1. Sivachalam
2. Rukumani

... Petitioners/Respondents

Vs.

1. Saraswathi
2. Narmadha

... Respondents/Complainants

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records relating to proceedings in DVC.No.41 of 2019 on the file of the learned Judicial Magistrate Court No.III at Tiruppur and quash the same.

For Petitioners : Mr.S.Kumaradevan

For Respondents : Mrs. D. Chitra Maragatham

O R D E R

This Criminal Original Petition has been filed to call for the records relating to proceedings in DVC.No.41 of 2019 on the file of the learned Judicial Magistrate Court No.III at Tirupur and quash the same.

2. The petitioners are husband and mother-in-law of the respondent and the marriage between first petitioner/Sivachalam and the first respondent/Saraswathi was solemnized on 06.06.1993. Thereafter, due to matrimonial disputes, the first 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.41 of 2019 on the file of the learned Judicial Magistrate Court No.III at Tirupur and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said DVC.No.41 of 2019 is pending for trial. At this stage, the petitioners 1 and 2 herein who are the husband and mother-in-law of the respondent pray to quash the proceedings in D.V.C.No.14 of 2019.

3. Heard Mr.S.Kumaradevan, learned counsel for the petitioners and Mrs.D.Chitra Maragatham, learned counsel for the respondents.

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 second petitioner herein is only the mother-in-law of the respondent. As such, the protection order sought for by the respondent herein in the domestic violence case against this second petitioner/mother-in-law, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the second 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 second petitioner. In the absence of the same, the proceedings as against this second petitioner cannot be maintained and consequently, the second 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 DVC.No.41 of 2019, on the file of the learned Judicial Magistrate Court No.III at Tirupur, insofar as the second petitioner is concerned, on condition that, she shall ensure that the A1/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 DVC.No.41 of 2019, on the file of the learned Judicial Magistrate Court No.III at Tirupur, as ad-interim maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the first respondent is entitled to withdraw the same.

6. Insofar as A1/husband of the respondent is concerned, since the impugned proceedings in DVC.No.41 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. A1/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 dismissed in respect of the first petitioner and allowed in respect of the second petitioner. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gv

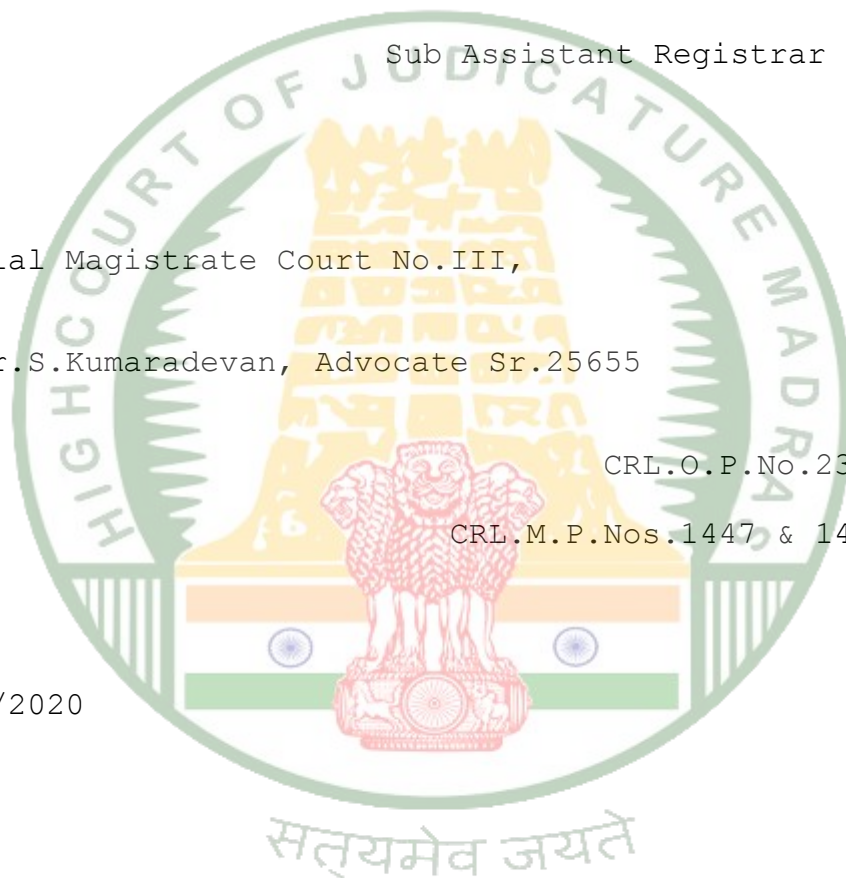
To

The Judicial Magistrate Court No.III,
Tiruppur.

+1cc to Mr.S.Kumaradevan, Advocate Sr.25655

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and
CRL.M.P.Nos.1447 & 1448 of 2020

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srg 21/08/2020



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