

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.07.2020

CORAM

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No. 4186 of 2020

and

CrI.M.P.Nos.2387 and 2388 of 2020

1. S.R. Magarajan

2. Poongodi

3. Nirmala

4. Jeyakumar

.... Petitioners

Vs

Sumithra

... Respondent

PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C, praying to call for the records in D.V.A.No.1 of 2020 on the file of the District Munsif-cum-Judicial Magistrate Court, Kotagiri and quash the same.

For Petitioners: Mr.T.Arunkumar

For Respondent : No Appearance.

ORDER

This Criminal Original Petition has been filed to quash the proceedings in D.V.A.No.1 of 2020, filed by the respondent herein, pending on the file of the District Munsif-cum-Judicial Magistrate Court, Kotagiri.

2. The petitioners are in-laws of the respondent and the marriage between A1/M.Sasikumar and the respondent Viz., Sumithra was solemnized on 12.12.2010. 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.A. No.1 of 2020 on the file of the District Munsif-cum-Judicial Magistrate Court, Kotagiri and implicated the

petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.A.1 of 2020 is pending for trial. At this stage, the petitioners herein who are the in-laws of the respondent pray to quash the proceedings in D.V.A.No.1 of 2020.

3. Heard Mr.T.Arunkumar, learned counsel for the petitioners.

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 petitioners herein are only in-laws of the respondent and they are living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against these petitioners/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 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 these petitioners. In the absence of the same, the proceedings as against these petitioners cannot be maintained and consequently, the petitioners 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 DVA.No.1 of 2020, on the file of the District Munsif-cum-Judicial Magistrate Court, Kotagiri, insofar as these petitioners are concerned, on condition that, they 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 DVA.No.1 of 2020, on the file of the District Munsif-cum-Judicial Magistrate Court, Kotagiri, 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 A1/husband of the respondent is concerned, since the impugned proceedings in DVA.No.1 of 2020 is pending from the year 2020 onwards, it would be appropriate to direct the trial Court to complete the trial within a period of nine 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 allowed. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

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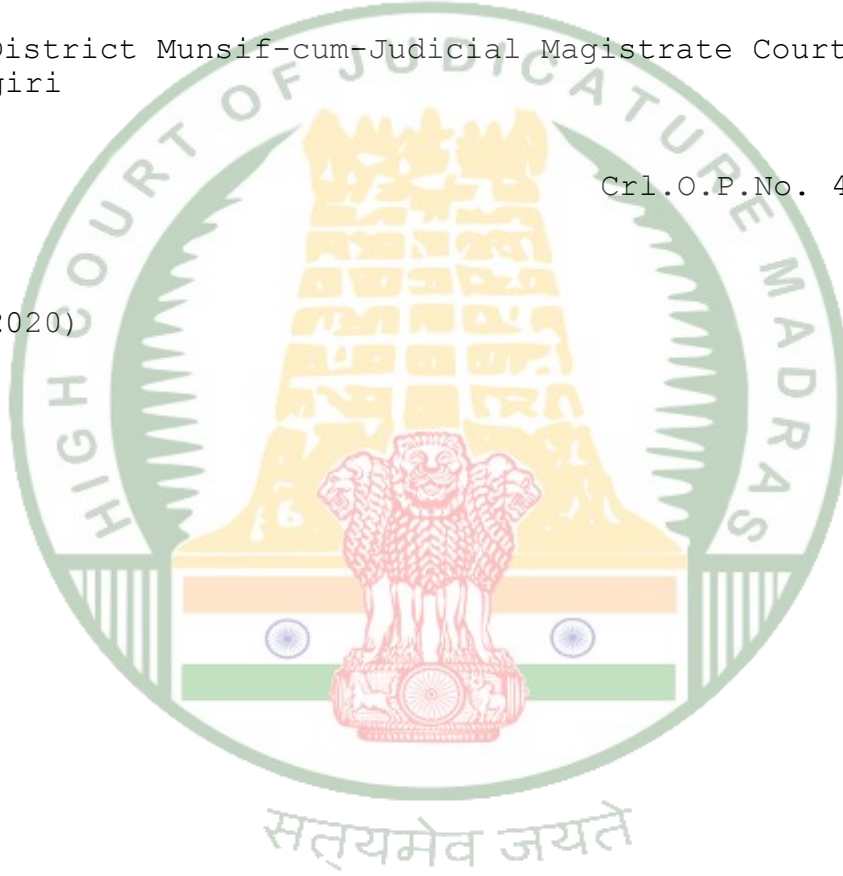
Sub-Assistant Registrar

To

The District Munsif-cum-Judicial Magistrate Court,
Kotagiri

Crl.O.P.No. 4186 of 2020

LN (CO)
SP (06/10/2020)



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