

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2020

CORAM:

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

CRL.OP.No.4725 of 2020

and

CRL.MP.No.2693 of 2020

1.Pandi Ammal
2.P.Nagarathinam
3.Revathi
4.P.Muthuselvam
5.Kathirvel Pandian Petitioners/Respondents 2 to 6

Vs.

K.N.Booma @ Nithya ...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the entire records in complaint in DVC.No.2 of 2020 on the file of XXIII Metropolitan Magistrate, Saidapet, Chennai and quash the same as against petitioners/R2 to R6.

For Petitioners: Mr.B.Manimaran

For Respondent : No appearance

सत्यमेव जयते
O R D E R

This Criminal Original Petition has been filed to call for the entire records in complaint in DVC.No.2 of 2020 on the file of XXIII Metropolitan Magistrate, Saidapet, Chennai and quash the same as against petitioners/R2 to R6.

2. Notice served. Name of the respondent is printed in the cause-list.

3. The petitioners 1 and 2 are in-laws of the respondent and petitioners 3 and 4 are the sister and brother-in-law of the Nagarajan/petitioner's husband and petitioner No.5 is the brother of the Nagarajan and the marriage between Nagarajan @ Suresh Babu and the respondent Viz.K.N.Booma @ Nithya was solemnized on 09.02.2017. 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.2 of 2020 on the file of the XXIII Metropolitan Magistrate, Saidapet, Chennai-15 and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.2 of 2020 is pending for trial. At this stage, the petitioners herein pray to quash the proceedings in D.V.C.No.2 of 2020.

4. Heard Mr.B.Manimaran, learned counsel for the petitioners.

5. 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, sister-in-law, her husband and brother-in-law 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, 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.

6. In view of the above, this Court is inclined to quash the proceedings in D.V.C.No.2 of 2020, on the file of the XXIII Metropolitan Magistrate, Saidapet, Chennai, insofar as these petitioners are concerned, on condition that, they shall ensure that the 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.2 of 2020, on the file of the XXIII Metropolitan Magistrate, Saidapet, Chennai, 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.

7. Insofar as husband of the respondent is concerned, since the impugned proceedings in DVC.No.2 of 2020 is pending, it would be appropriate to direct the trial Court to complete the trial within a period of twelve 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

8. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO MDU)

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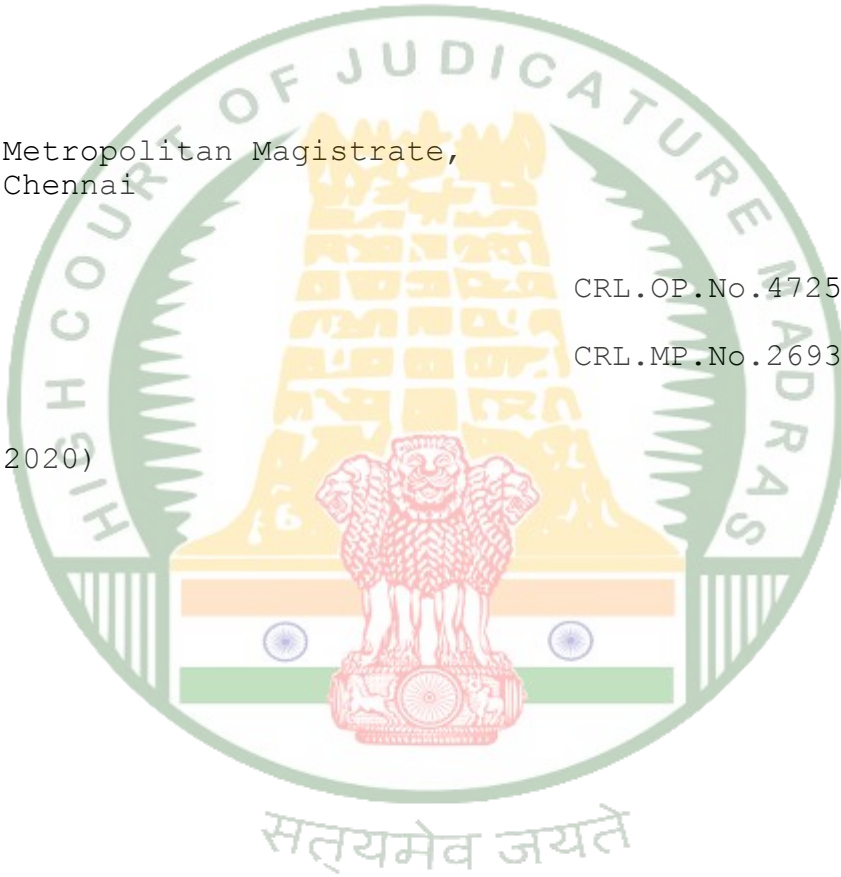
Sub Assistant Registrar

To

The XXIII Metropolitan Magistrate,
Saidapet, Chennai

CRL.OP.No.4725 of 2020
and
CRL.MP.No.2693 of 2020

VSN II (CO)
GMY (09/09/2020)



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