

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 03.08.2020
CORAM:

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

CRL.O.P.No.5356 of 2020
and CRL.M.P.No.3030 of 2020

1.Alavikutty, M/a, 54 years,
S/o.Moideed Hajee.

2.Moideen Hajee, M/a.85 years,
S/o.Mohammed

3.Pijumma, F/a.78 years,
W/o.Moideed Hajee.

All the petitioners are residing at
No.5/18, Padanthurai, Gudalore, Nilgiri District.

... Petitioners/ Petitioners

Vs.

1.Jasmine, F/a.50 years,
W/o.Alavikutty.

2.Selvi Piyasha, F/a, 22 years,
D/o.Alavikutty.

Both the respondents are residing at
Plot No.6, Ezhilagam, Moovar Nagar, 3rd Cross Street.
Koundampalayam East, Coimbatore.

...Respondents/ Respondents

PRAYER: Criminal Original Petition filed under Section 482 of
Cr.P.C, to call for the records pertaining to D.V.C.No.597 of
2019 pending on the file of the Special Court for Trial of
Domestic Violence Act Cases, Coimbatore and quash the same.

For Petitioners : M/s.N.Sankara Sabari
For Respondents : No Appearance

O R D E R

This Criminal Original Petition has been filed to quash
the proceedings in D.V.C.No.597 of 2019, filed by the
respondent herein, pending on the file of the Special Court
for Trial of Domestic Violence Act Cases, Coimbatore.

2. The petitioners are husband, father-in-law and
mother-in-law of the respondent and the marriage between the
1st petitioner and the respondent Viz., Jasmine, was solemnized
on 15.12.1988. 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.597 of 2019 on the file of the Special Court for Trial of
Domestic Violence Act Cases, Coimbatore 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.597 of 2019 is pending for trial. At this stage, the petitioners herein who are the husband, father-in-law and mother-in-law of the respondent pray to quash the proceedings in D.V.C.No.597 of 2019.

3. Heard M/s.N.Sankara Sabari, learned counsel for the petitioners and there is no representation 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 2nd and 3rd petitioners herein are only father -in-law and mother-in-law of the respondent and both are living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against the 2nd and 3rd petitioners/father-in-law and mother-in-law, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the 2nd and 3rd 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 the 2nd and 3rd petitioners. In the absence of the same, the proceedings as against the 2nd and 3rd petitioners cannot be maintained and consequently, the 2nd and 3rd petitioners need not undergo the ordeal of facing a criminal trial.

5. In view of the above, this Court is not inclined to quash the proceedings in D.V.C No.82 of 2019 in respect of the 1st petitioner and hence, the Criminal Original Petition is dismissed as against the 1st petitioner. However, this Court is inclined to quash the proceedings in D.V.C.No.597 of 2019, on the file of the Special Court for Trial of Domestic Violence Act Cases, Coimbatore, insofar as the 2nd and 3rd petitioners are concerned, on condition that, she shall ensure that the 1st petitioner/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.597 of 2019, on the file of the Special Court for Trial of Domestic Violence Act Cases, Coimbatore, 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 the 1st petitioner/husband of the respondent is concerned, 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. The 1st petitioner/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 insofar as the 2nd and 3rd petitioners are concerned. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

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Sub Assistant Registrar

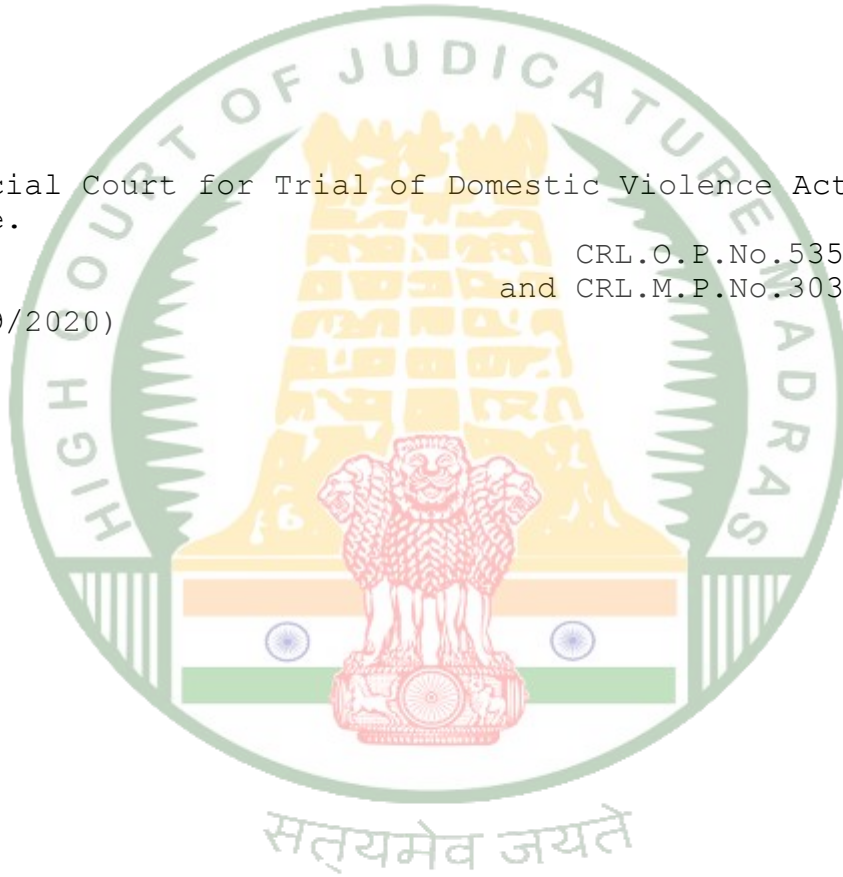
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To

1.The Special Court for Trial of Domestic Violence Act Cases,
Coimbatore.

CRL.O.P.No.5356 of 2020
and CRL.M.P.No.3030 of 2020

A.SK(24/09/2020)



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