

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2020

CORAM:

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

CRL.O.P.No.6603 of 2020

and

CRL.M.P.3647 of 2020

1.K.P.Ashoka
W/o. (Late) A.Subramani ... Petitioner/3rd Respondent
DVC No.72 of 2019

Vs.

1.J.Catheriene
W/o.S.Jaiganesh ... 1st Respondent/Complainant in
DVC No.72 of 2019

2.S.Jaiganesh
S/o.A.Subramani

3.S.Muralidharan
S/o.(Late) A.Subramani ... 2nd & 3rd Respondents/
1st & 2nd Respondents in
DVC No.72 of 2019

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to D.V.C.No.72 of 2019 pending on the file of the Mahila Court, Egmore, Chennai and quash the same.

For Petitioner : Mr.G.Saravanakumar
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.72 of 2019, filed by the respondent herein, pending on the file of the Mahila Court, Egmore, Chennai.

2. The petitioner is the mother-in-law of the 1st respondent and the marriage between S.Jaiganesh/2nd respondent and the 1st respondent Viz.,J.Catheriene was solemnized on 22.08.2005. Thereafter, due to matrimonial disputes the 1st respondent and her husband were living separately from the

matrimonial home. Under this circumstance, the 1st respondent herein filed a petition under Domestic Violence Act in D.V.C.No.72 of 2019 on the file of the Mahila Court, Egmore, Chennai and implicated the petitioner herein as party to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.72 of 2019 is pending for trial. At this stage, the petitioner herein who is the in-law of the 1st respondent pray to quash the proceedings in D.V.C.No.72 of 2019.

3. Heard Mr.G.Saravanakumar, learned counsel for the petitioner. Though notice was served on the respondent, none appeared 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 petitioner herein is the only in-law of the 1st respondent and she is living separately. As such, the protection order sought for by the 1st respondent herein in the domestic violence case against the petitioner/in-law, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioner against the 1st 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 petitioner. In the absence of the same, the proceedings as against these petitioner cannot be maintained and consequently, the 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 D.V.C.No.72 of 2019 on the file of the Mahila Court, Egmore, Chennai insofar as the petitioner is concerned, on condition that, she shall ensure that the husband of the 1st 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.72 of 2019 on the file of the Mahila Court, Egmore, 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 1st respondent is entitled to withdraw the same.

6. Insofar as husband of the 1st respondent is concerned, since the impugned proceedings in D.V.C.No.72 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. The husband of the 1st 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, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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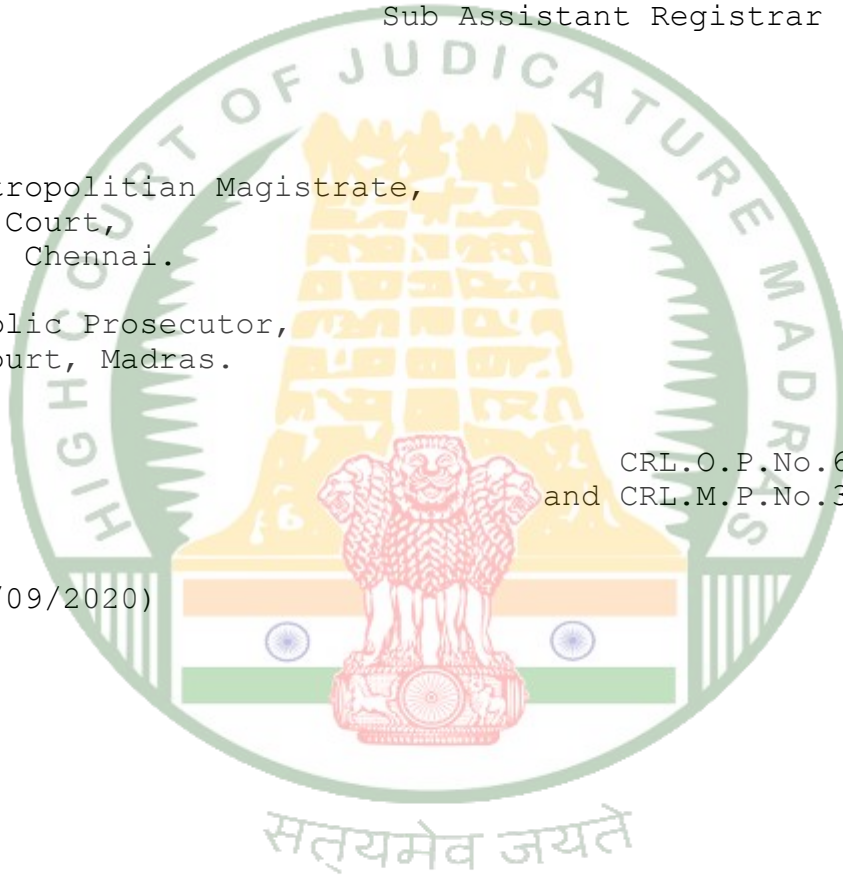
Sub Assistant Registrar

To

1. The Metropolitan Magistrate,
Mahila Court,
Egmore, Chennai.
2. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.6603 of 2020
and CRL.M.P.No.3647 of 2020

mr (co)
rr ii (03/09/2020)



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