

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.12305 of 2020
and CrI.M.P.Nos.4878 and 4879 of 2020

1.S.Predeep Kumar, M/30 Years,
S/o.Samikannu

2.S.Samikannu, M/62 Years,
S/o.Sundar Raj

3.S.Vasanthi, F/55 Years,
W/o.Samikannu

Petitioners 1 to 3 are residing at
D.No.177, Jai Nagar, 6th Street,
Rakkiapalayampirivu,
Tiruppur.

... Petitioners

Vs.

Sandhiya @ Samuli, F/29 Years,
W/o.S.Predeep Kumar,
D.No.177, Jai Nagar, 6th Street,
Rakkiapalayampirivu,
Tiruppur.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482
Cr.P.C. praying to call for the records in D.V.A.No.43 of 2019
on the file of the learned Judicial Magistrate No.IV, Tiruppur
and Quash the same.

For Petitioners: Mr.A.Tamilarasan

For Respondent : Mr.A.Edwin Prabakar

ORDER

This petition has been filed to call for the records
relating to the case in D.V.A.No.43 of 2019 on the file of the
learned Judicial Magistrate No.IV, Tiruppur and Quash the same.

2. The petitioners are the husband and the in-laws of the
respondent and the marriage between A1/S.Predeep Kumar and the

respondent Viz., Sandhiya @ Samuli was solemnized on 05.05.2014. 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.43 of 2019 on the file of the learned Judicial Magistrate No.IV, Tiruppur and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.A.No.43 of 2019 is pending for trial. At this stage, the petitioners herein who are the husband and the in-laws of the respondent pray to quash the proceedings in D.V.A.No.43 of 2019.

3. Heard Mr.A.Tamilarasan, learned counsel for the petitioners and Mr.A.Edwin Prabakar, learned counsel for the respondent.

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 2 and 3 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 petitioners 2 and 3/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 2 and 3 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 petitioners 2 and 3. In the absence of the same, the proceedings as against petitioners 2 and 3 cannot be maintained and consequently, the petitioners 2 and 3 need not undergo the ordeal of facing a criminal trial. Insofar as first petitioner is concerned, this criminal original petition is dismissed.

5. In view of the above, this Court is inclined to quash the proceedings in D.V.A.No.43 of 2019, on the file of the learned Judicial Magistrate No.IV, Tiruppur, insofar as petitioners 2 and 3 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) per month before 5th of every English Calendar month to the credit of DVA.No.43 of 2019, on the file of the learned Judicial Magistrate No.IV, Tiruppur, 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 D.V.A.No.43 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. 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 this Court.

7. In the result, this Criminal Original Petition stands partly allowed. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

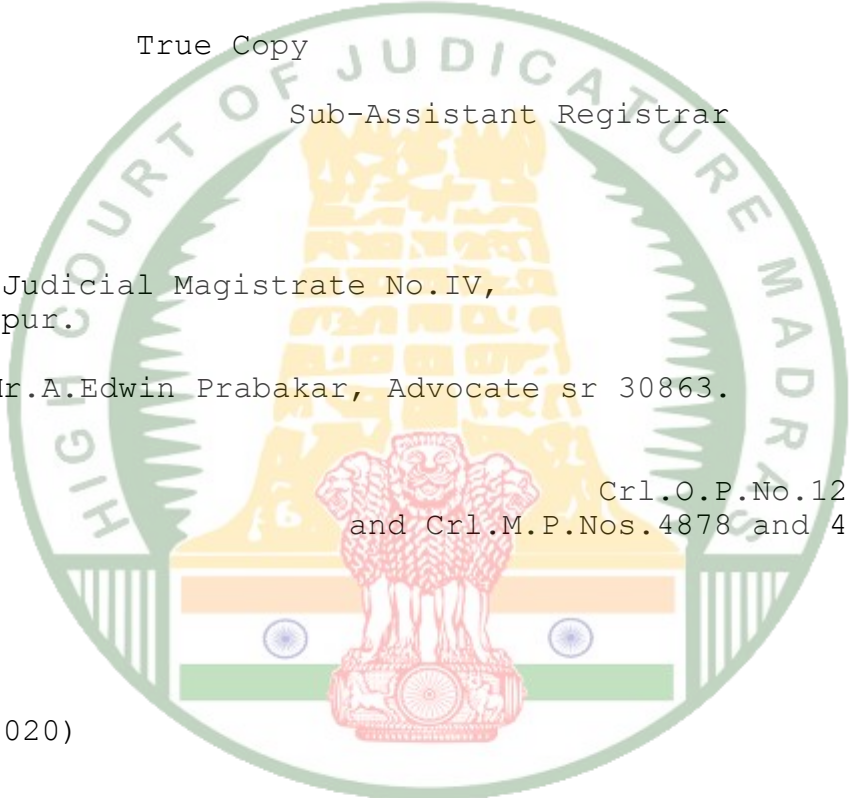
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To

The Judicial Magistrate No.IV,
Tiruppur.

+1 CC to Mr.A.Edwin Prabakar, Advocate sr 30863.

Crl.O.P.No.12305 of 2020
and Crl.M.P.Nos.4878 and 4879 of 2020

KS(CO)
SP(16/10/2020)



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