

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.09.2020
CORAM:
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN
Crl.O.P.No.13284 of 2020
and
Crl.M.P.Nos. 5164 & 5165 of 2020

1.K.Arun (Aged 36)
S/o.Late Kuppusamy

2.Bhuvaneswari 57 years,
W/o.Late Kuppusamy,
Both are residing at
Door No.51, Blossom Villa,
Vellore Road, Pallikonda,
Vellore District. ... Petitioners /1 & 2 Respondent

Vs

C.M.Yamani @ Dhanayasree,
aged 30 years,
W/o.Dr.Arun,
No.96/16 Main Road,
Dr.Kalaingar Nagar,
Thiruvetiyur,
Chennai - 600 019. ... Respondent/Plaintiff

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records and quash the proceeding in D.V.C.No.4 of 2019 on the file of learned Judicial Magistrate, Thiruvetiyur.

For Petitioners: Mr.S.Vigneswaran
For Respondent : No appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.4 of 2019, filed by the respondent herein, pending on the file of the learned Judicial Magistrate, Thiruvetiyur.

2. The petitioners are husband and mother-in-law of the respondent and the marriage between A1/K.Arun and the respondent Viz., C.M.Yamani @ Dhanayasree was solemnized on 03.06.2018. 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.4 of 2019 on the file of the learned Judicial Magistrate, Thiruvettiyur 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.4 of 2019 is pending for trial. At this stage, the petitioners herein who are the husband and mother-in-law of the respondent pray to quash the proceedings in D.V.C.No.4 of 2019.

3. Heard Mr.S.Vigneswaran, learned counsel for the petitioners.

4. Though notice was served on the respondent, no one appeared on behalf of the respondent by person or through pleader.

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 2nd petitioner herein is only mother-in-law of the respondent. As such, the protection order sought for by the respondent herein in the domestic violence case against the 2nd petitioner/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 petitioner 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 petitioner. In the absence of the same, the proceedings as against the 2nd petitioner cannot be maintained and consequently, the 2nd petitioner need not undergo the ordeal of facing a criminal trial. Insofar as first petitioner is concerned, this criminal original petition is dismissed.

6. In view of the above, this Court is inclined to quash the proceedings in D.V.C.No.4 of 2019, on the file of the learned Judicial Magistrate, Thiruvettiyur, insofar as the 2nd petitioner is 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 D.V.C.No.4 of 2019, on the file of the learned Judicial Magistrate, Thiruvettiyur, 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 A1/husband of the respondent is concerned, since the impugned proceedings in D.V.C.No.4 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. 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.

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

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

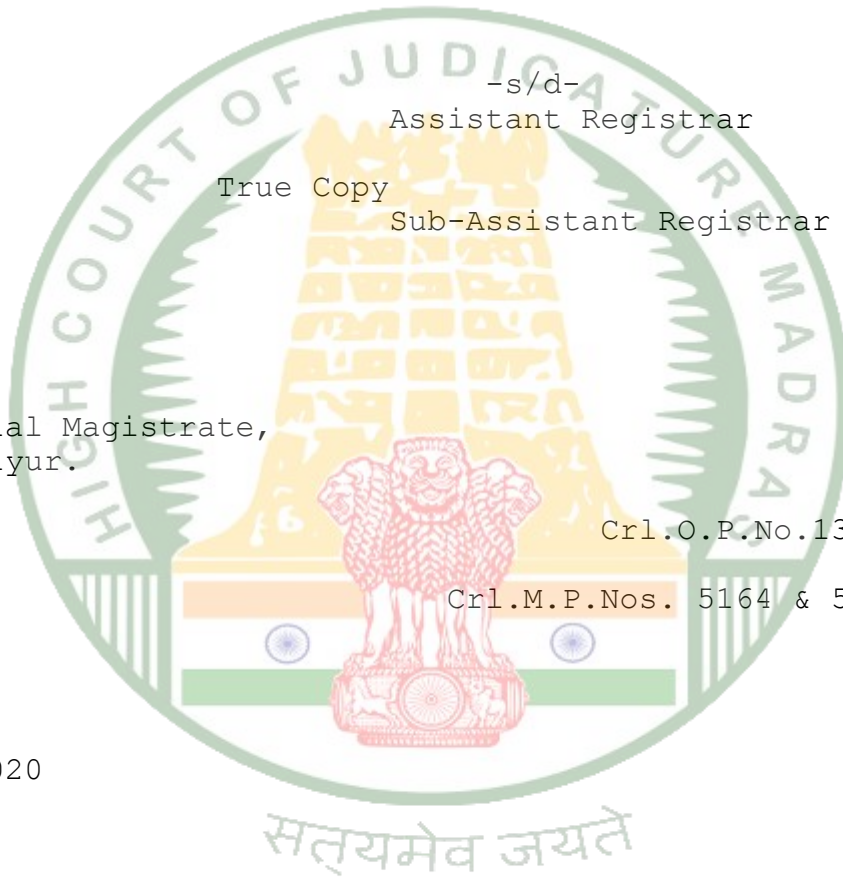
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To

The Judicial Magistrate,
Thiruvettiur.

Crl.O.P.No.13284 of 2020
and
Crl.M.P.Nos. 5164 & 5165 of 2020

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