

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

CORAM:

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

CRL.O.P.No.14225 of 2019

and

CRL.M.P.Nos.6898 and 6899 of 2019

1.M.A.Mohammed Azarudeen

(This Criminal Original petition is dismissed insofar as the first petitioner is concerned as per order dated 06.06.2019 made in Crl.O.P.No.14225 of 2019 and Crl.M.P.No.6898 and 6899 by this Court.)

2.M.A.Abdul Samath

3.K.M.Rahamath Nachiya

4.M.A.Bawa Bahurudeen ... Petitioners/Respondents 1-4

Vs.

H.Nifras Afreen ... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pending on the file of the learned Judicial Magistrate, No.II, Mannarkudi, Thiruvavur District in D.V.C.No.7/2019 and quash the Criminal proceeding.

For Petitioners: Mr.E.Kannadasan

For Respondent : Mr.D.Veerasekaran

### ORDER

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.7 of 2019, filed by the respondent herein, pending on the file of the Judicial Magistrate No.II, Mannarkudi, Tiruvavur District.

2. The petitioners are in-laws of the respondent and the marriage between Al/husband and the respondent Viz.,H.Nifras Afreen was solemnized on 10.09.2017. 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.7 of 2019 on the file of the Judicial Magistrate No.II, Mannarkudi, Tiruvavur District and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.7 of 2019 is pending for trial. At this stage, the petitioners herein who are the in-laws of the respondent pray to quash the proceedings in D.V.C.No.7 of 2019.

3. Heard Mr.E.Kannadasan, learned counsel for the petitioners and Mr.D.Veerasekaran, learned counsel appearing 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 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 these petitioners/in-laws, 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.

5. In view of the above, this Court is inclined to quash the proceedings in DVC.No.7 of 2019, on the file of the Judicial Magistrate No.II, Mannarkudi, Tiruvarur District, insofar as these petitioners 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) before 5<sup>th</sup> of every English Calendar month to the credit of DVC.No.7 of 2019, on the file of the Judicial Magistrate No.II, Mannarkudi, Tiruvarur District, 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 DVC.No.7 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.

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

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

tta

To

1.The Judicial Magistrate No.II,  
Mannarkudi, Tiruvarur District.  
+1cc to Mr.E.Kannadasan, Advocate, Sr.No.20323.  
+1cc to Mr.D.Veerasekaran, Advocate, Sr.No.19786.

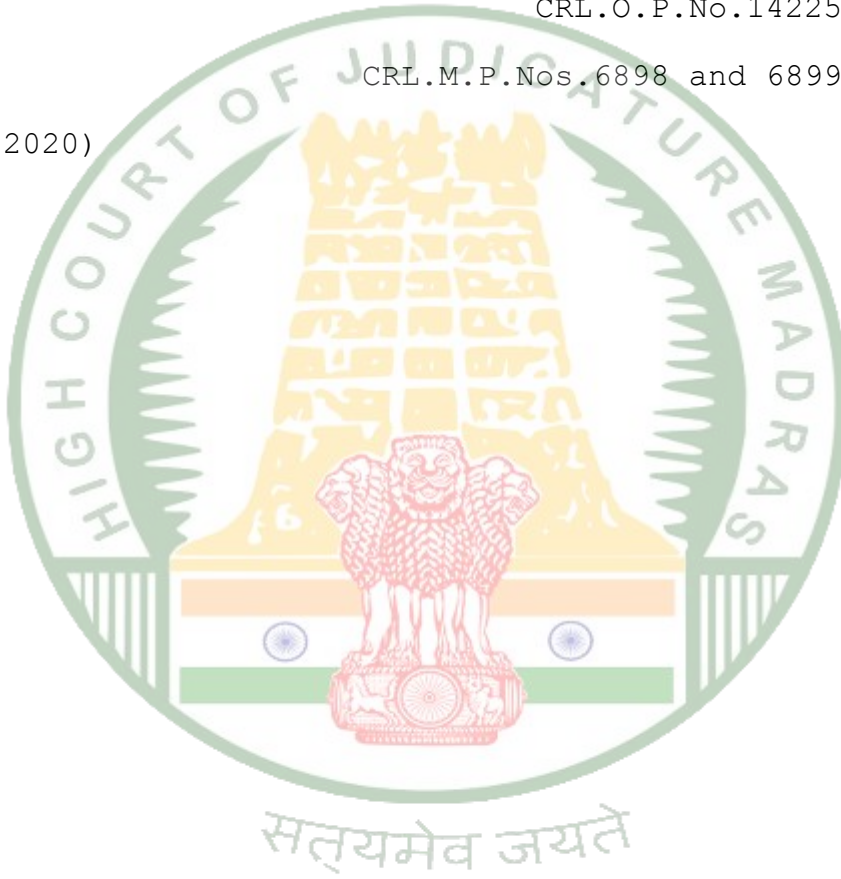
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