

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.02.2020
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.10385 of 2014
and
Crl.M.P.No.1 of 2014

N.Velusamy

... Petitioner

Vs.

1.Minor Ramakrishnan

2.Minor Nateshvar

Rep. by,
M.Subramanian,
S/o.Muthu Thevar,
Avanam Village,
Peravurani Taluk,
Pattukottai Munsifi,
Tanjore District.

... Respondents

Prayer: Petition filed under Section 482 of Cr.P.C., to call for the records in D.V.A.No.1 of 2014 on the file of the Judicial Magistrate No.I, Coimbatore, Coimbatore District and quash the same.

For Petitioners : M/s.C.Veeraraghavan
For Respondents : Mr.R.K.Ramaiah

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in D.V.A.No.1 of 2014 on the file of the Judicial Magistrate Court No.I, Coimbatore.

2.The respondents are the minor sons of the petitioner represented by his father-in-law. The petitioner was married to the daughter of Subramanian on 09.11.1997 and they had two male children and thereafter, the daughter of the said Subramanian died due to Cancer on 02.08.2013. After her demise, there was some misunderstanding between the petitioner and Subramanian on the ground that the petitioner has not taken care the minor respondents and hence, the said Subramanian filed a Domestic Violence Complaint before the learned Judicial Magistrate No.I, Coimbatore. Against which, the present petition has been filed.

3.The learned counsel for the petitioner would submit that the petitioner has high reputation with his father-in-law viz., Subramanian and his apprehension is that the petitioner will not take care the minor respondents. He would further submit that the petitioner has filed this petition in the year 2014 and for the past six years the petitioner and the respondents were settled in UAE and now the respondents are studying in UAE and till date there is no complaint from the family members. The petitioner is taking care of his minor children and they are in his care and custody. He would further submit that the petitioner will not restrict the visiting rights of his father-in-law Subramanian at any time.

4.The learned counsel for the respondents would submit that he has no instructions from his clients and he vehemently opposed the submissions made by the learned counsel for the petitioner.

5.On perusal of the Domestic Violence Complaint filed by the grand father of the minor children/respondents, it is seen that the mother of the minor children died due to cancer on 02.08.2013 and thereby, the grand father of the respondents Subramanian filed the above complaint only on an apprehension that the petitioner will not take care of the interest of the respondents. However, the learned counsel for the petitioner submitted that the minor children/respondents are studying in United Arab Emirates and no allegation was made against the petitioner for taking care of the respondents till date.

6.A reading of Section 2(a) of the Protection of Women from Domestic Violence Act, 2005 shows that an 'aggrieved person' means a person who alleges to have been subjected to any act of the domestic violence. Section 2(a) of the Protection of Women from Domestic Violence Act, 2005 is extracted here under:-

(a) "aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

7.In the present case, the relationship between the petitioner and Subramanian is the father-in-law and son-in-law and the said Subramanian did not make any domestic violence against the petitioner and the minor children are care and custody of the petitioner. Admittedly, he is the grand father of the minor respondents and not in domestic relationship with the petitioner and hence, he is not an aggrieved person as contemplated under Section 2(a) of the Protection of Women from Domestic Violence Act, 2005.

8.In view of the above, the proceedings in D.V.A.No.1 of 2014 on the file of the Judicial Magistrate No.I, Coimbatore is hereby quashed. Accordingly, this Criminal Original Petition is Allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

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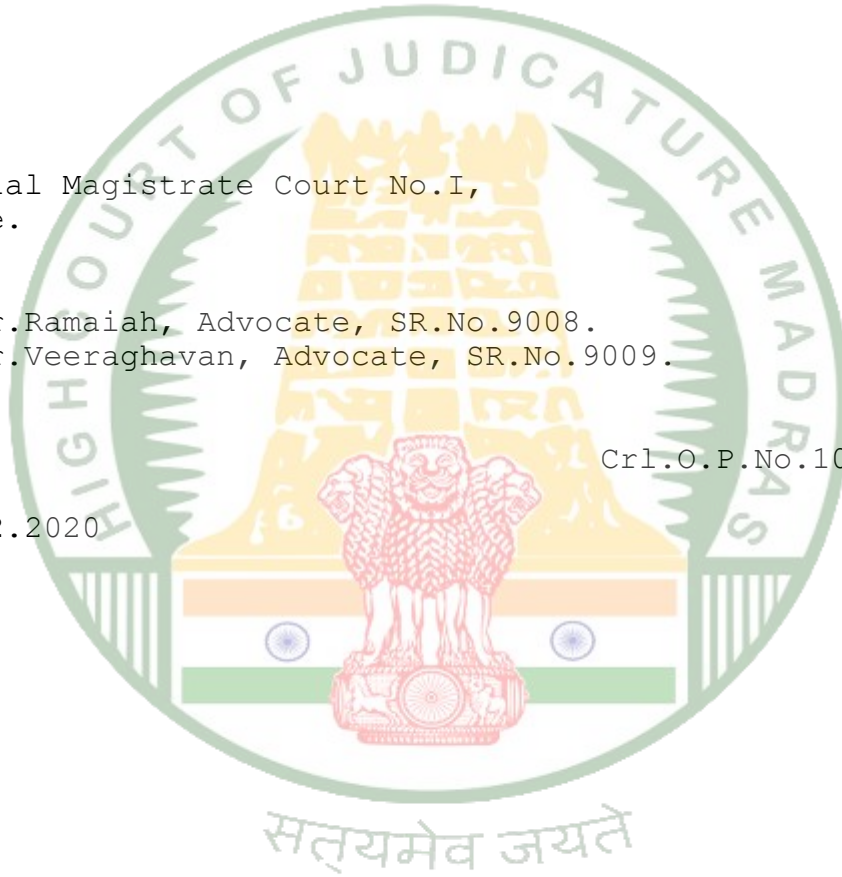
The Judicial Magistrate Court No.I,
Coimbatore.

+1cc to Mr.Ramaiah, Advocate, SR.No.9008.

+1cc to Mr.Veeraghavan, Advocate, SR.No.9009.

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MG (CO)
CSR: 05.02.2020



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