

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2020

CORAM:

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

CRL.O.P.Nos.15754 & 20409 of 2019
and
CRL.M.P.Nos.7869, 7870,10505 & 10506 of 2019

Crl.O.P.No.15754 of 2019

Rahamathullah Khan

...Petitioner

Vs.

M.Aysha

R.Mohamed Faizal

Syed Sultana

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records and quash all proceedings in D.V.C.No.20 of 2016 on R.C.No.1 of 2017 on the file of the Judicial Magistrate Court, Fast Track Court (Magisterial level) Alandur in so far as the petitioners are concerned.

Crl.O.P.No.20409 of 2019

Syed Sultana

...Petitioner

Vs.

M.Aysha

R.Mohamed Faizal

Rahamathullah Khan

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records and quash all proceedings in D.V.C.No.20 of 2016 now renumbered as D.V.C.No.1 of 2017 on the file of the Judicial Magistrate Court, Fast Track Court (Magisterial Level) Alandur in so far as the petitioners are concerned.

For Petitioner : M/s.N.A. Nissar Ahmed
(in both Crl.O.Ps)

For Respondents : Mr.C.V.Kumar (for R1)
(in Crl.O.P.No.15754 of 2019)

M/s. R.Lavanya (for R1)
(in Crl.O.P.No.20409 of 2019)

C O M M O N O R D E R

These Criminal Original Petitions have been filed to quash the proceedings in D.V.C.No.20 of 2016 now renumbered as D.V.C.No.1 of 2017 on the file of the Judicial Magistrate Court, Fast Track Court (Magisterial level) Alandur.

2. The petitioners in the above Criminal O.Ps are the in-laws of the first respondent and the marriage between second respondent R.Mohamed Faizal and the first respondent Viz.,M.Aysha was solemnized on 28.04.2014. Thereafter, due to matrimonial disputes, the first respondent and her husband were living separately from the matrimonial home. Under these circumstances, the first respondent herein filed a petition under Domestic Violence Act in D.V.C. No.20 of 2016 on the file of the Judicial Magistrate Court, Fast Track Court (Magistirial Leval) Alandur and implicated the petitioners in both the Crl.O.Ps/ in laws and also her husband, as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.20 of 2016 is pending for trial. At this stage, the petitioners herein who are the in-laws of the first respondent pray to quash the proceedings in D.V.C.No.20 of 2016.

3. Heard Mr.N.A.Nissar Ahmed, learned counsel for the petitioners and Mr.C.V.Kumar and M/s.R.Lavanya learned counsel appearing for the first respondent.

4. It is seen that the relief sought for by the first 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 first respondent and they are living separately. As such, the protection order sought for by the first 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 first

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.20 of 2016, on the file of the Judicial Magistrate Court, Fast Track Court (Magisterial Level) Alandur, insofar as these petitioners are concerned, on condition that, the second respondent/husband of the first respondent shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before 5th of every English Calendar month to the credit of DVC.No.20 of 2016, on the file of the Judicial Magistrate Court, Fast Track Court (Magisterial Level) Alandur, as ad-interim maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the first respondent is entitled to withdraw the same.

6. Insofar as second respondent/husband of the first respondent is concerned, since the impugned proceedings in DVC.No.20 of 2016 is pending from the year 2016 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. R2/husband of the first respondent/wife is directed to appear before the trial Court on the next hearing date, failing which, the first respondent is at liberty to approach this Court.

7. In the result, these Criminal Original Petitions stand allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
सत्यमेव जयते

Assistant Registrar

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Sub Assistant Registrar

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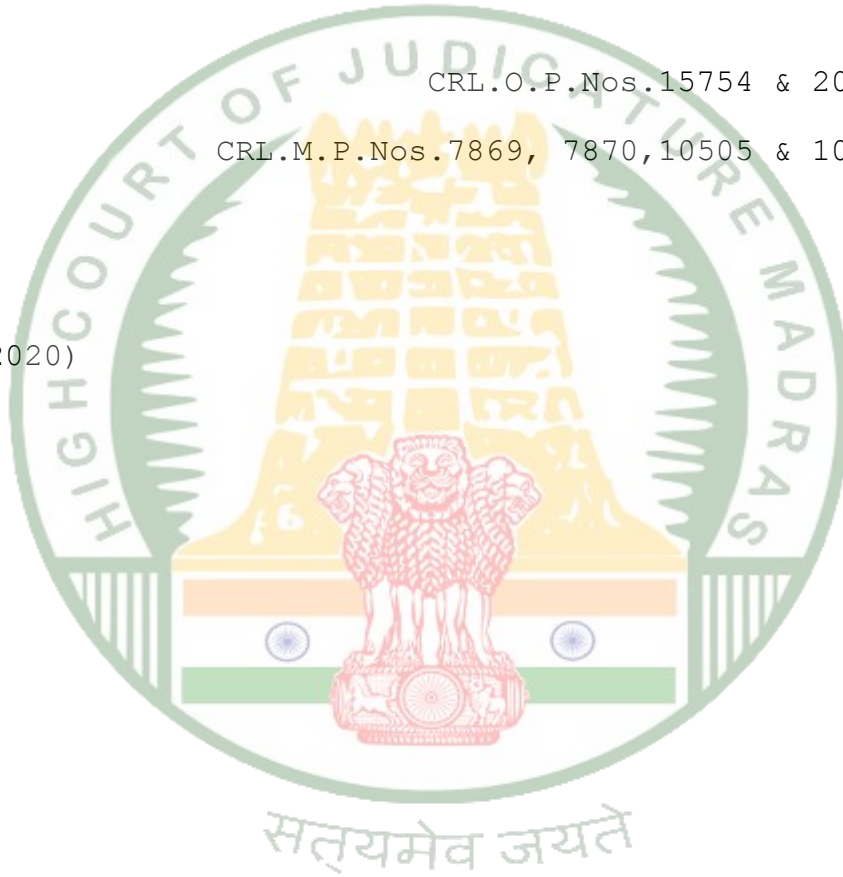
To

The Judicial Magistrate Court,
Fast Track Court,
(Magisterial Level)
Alandur.

+1cc to M/s.N.A.Nissar Ahmed, Advocate, S.R.No.19814,19815

CRL.O.P.Nos.15754 & 20409 of 2019
and
CRL.M.P.Nos.7869, 7870,10505 & 10506 of 2019

RGN (CO)
RN (25/06/2020)



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