

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2020

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.29426 of 2014

and

Crl.M.P.Nos.1 & 2 of 2014

1.Rambai

2.Geetha

3.C.Srinivasan

... Petitioners

Versus

R.Devi

.... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records to the case in C.C.No.3127 of 2013 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai and quash the same.

For Petitioners: Mr.V.Perarasu

For Respondent : Mr.S.J.Mohamed Sathik
Legal Aid Counsel

ORDER

The petitioners, who are the respondents in C.C.No.3127 of 2013 pending on the file of the V Metropolitan Magistrate Court, Egmore, Chennai have filed this quash petition.

2.The respondent failed to appear before this Court, private notice sent was also returned within an endorsement 'left' and the name of the respondent printed in the cause list. Since the case is pending from the year 2014 for the service of notice and all the efforts went in vein, this Court appointed Mr.S.J.Mohamed Sathik, as Legal Aid Counsel for the respondent by order dated 06.03.2020.

3.The case of the respondent is that the marriage between the respondent and one Ravi, who is the son of the 1st petitioner, was held on 07.05.2009 at Kundrathur. During the marriage, 14 sovereigns of gold jewels, Rs.55,000/- cash along with household articles were given as Sreedhana. The son of the

1st petitioner was employed as Conductor in Metropolitan Transport Corporation, Chennai. After the marriage, the respondent was residing with her husband Ravi along with the petitioners. Out of their marriage, a boy baby Kreesh Ragavan was born to them. After birth of the child, the petitioners herein started ill treating the respondent and also demanded dowry, the husband of the respondent Ravi did not object the same. On the other hand, her husband Ravi physically assaulted her. Unable to bear the same, the respondent left the matrimonial house and started living with her parents. Thereafter, the husband of the respondent filed a petition for restitution of conjugal rights in O.P.No.231 of 2011 before the learned Subordinate Judge, Tambaram.

4. During the proceedings, a compromise was arrived and the case was withdrawn, from 03.01.2012, the respondent started living with her husband and the petitioners. The respondent and her husband Ravi were living in a separate room, the harassment and cruelty meted to her by her husband and the petitioners continued. Finally on 28.10.2012 unable to bear any more, the respondent left the matrimonial home and started living with her parents. The complaint to the Protection Officer, Chennai was lodged by the respondent on 16.11.2012, seeking monthly maintenance of Rs.10,000/-. Thereafter, domestic enquiry was conducted by the Protection Officer and Domestic Incident Report was forwarded to the learned V Metropolitan Magistrate, Egmore, Chennai, took the case on file in C.C.No.3127 of 2013 and issued the summons against the petitioners and the husband of the respondent Ravi, against which the present petition.

5. The learned counsel for the petitioners submitted that the 1st petitioner is the mother-in-law, the 2nd petitioner is the sister-in-law of the respondent and the 3rd petitioner is the husband of the 2nd petitioner. The 2nd and 3rd petitioners are residing at Mangadu, Chennai right from the marriage of respondent and they have never shared a common household with her. It is admitted by the respondent that earlier she had left the matrimonial house and it was her estranged husband Ravi filed a petition for restitution of conjugal rights before the Subordinate Judge, Tambaram in O.P.No.231 of 2011. During the proceedings, a compromise was arrived between them on condition that both of them have to have a separate home, which was accepted and the respondent and her husband Ravi were living with their son separately. Thereafter, misunderstanding aroused between them and that being the case, there can be no allegation made against the petitioners for any domestic violence. The Protection Officer had not called for any enquiry and had not

obtained any statement from the petitioners to verify the truthfulness or otherwise of the respondent. The Protection Officer on receipt of the complaint, straight away forwarded the domestic report, which is not sustainable.

6.The learned counsel for the petitioner further submitted that the Protection Officer, Chennai sought by the respondent is only against her estranged husband Ravi and not against the petitioners. As per the complaint, the respondent's claim is for monthly maintenance. Thus, on taking overall facts and circumstances, there is no case as against the petitioners to be proceeded under Domestic Violence.

7.The learned counsel for the respondent submitted that the respondent had given a complaint to the Protection Officer, Chennai on 16.11.2012 by annexing the documents. He further submitted that the respondent was harassed and subjected to cruelty by the petitioners and her husband for the purpose of dowry. The respondent taking into consideration, the child welfare and future, left the matrimonial house and joined with her parents. He further submitted that during the proceedings in O.P.No.231 of 2011, the respondent and her husband entered into a compromise, the respondent believed that the petitioners would not interfere with her matrimonial life. On the contrary, the petitioners and her husband continued their harassment by ill treating the respondent. The demand of dowry was consistent and persistent even after the compromise. Unable to tolerate the same, she had joined her parents. Thereafter none of the petitioners or her estranged husband had taken any steps to see the child and take any steps for maintenance of the respondent and infant.

8.The learned counsel further submitted that the husband of the respondent though working in a public sector/Metropolitan Transport Corporation and having sufficient earning, neglected the respondent, for which the respondent had lodged the complaint to the Protection Officer, who conducted an enquiry, forwarded the complaint to the learned V Metropolitan Magistrate, Egmore, Chennai. On the basis of the complaint, the V Metropolitan Magistrate, Egmore took cognizance and issued summons to the petitioners, who immediately approached this Court and filed the above petition.

9.Considering the rival submissions and on perusal of the materials it is seen that the 1st petitioner is the mother-in-law, the 2nd petitioner is the sister-in-law of the respondent

and the 3rd petitioner is the husband of the 2nd petitioner. The 2nd and 3rd petitioners got married and living separately at Mangadu, Chennai. They had never shared common household with the respondent. The 1st petitioner being the mother-in-law initially shared a common household along with the respondent and her estranged husband Ravi. After the compromise before the Sub Court, Tambaram in O.P.No.231 of 2011, the respondent and her husband Ravi living with their son separately. Thereafter, the 1st petitioner was not sharing any common household with them.

10.It is admitted by the respondent that she had left the matrimonial house and joined her parents. In the complaint given to the Protection Officer, Chennai, she had sought monthly maintenance for her and her child. From the Domestic Incident Report the Protection Order sought is against her estranged husband Ravi and no Protection order was sought from the petitioners. Hence, the proceedings as against petitioners requires interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

11.In the result, the proceedings in C.C.No.3127 of 2013, pending on the file of the V Metropolitan Magistrate Court, Egmore, Chennai is hereby quashed insofar as the petitioners are concerned. Accordingly, this Criminal Original Petition is allowed. Since the case is pending from the year 2013, the trial Court is directed to complete the trial against the estranged husband of the respondent Ravi within a period of six months from the date of receipt of a copy of this order.

12.This Court appreciates Mr.S.J.Mohamed Sathik appointed as legal aid counsel for the respondent in rendering his sincere efforts in this regard.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

1.The V Metropolitan Magistrate Court,
Egmore,
Chennai.

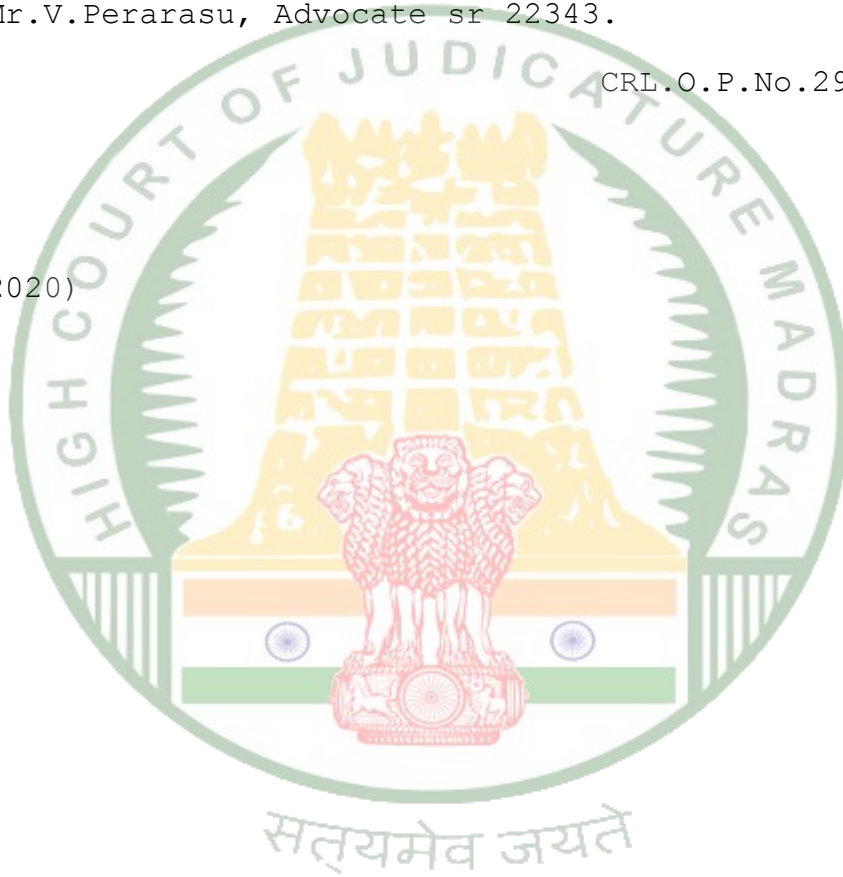
2.The Secretary
Legal aid Services Authority
High Court, Madras 104.

+1 CC to Mr.S.J.Mohamed Sathik, Advocate sr 23312.

+1 CC to Mr.V.Perarasu, Advocate sr 22343.

CRL.O.P.No.29426 of 2014

RK(CO)
SP(06/10/2020)



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