

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM:

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

CRL.O.P.NO.23150 OF 2019

AND

CRL.M.P.NO.12150 OF 2019

1.V.Balaji

2.Vanaja

3.V.Lakshmi

4.K.Balamanoj Petitioners

Vs.

Sharmila Respondent

PRAYER:

Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in D.V.C.No.3 of 2019 on the file of the learned Judicial Magistrate, At Kallakurichi and quash all further proceedings.

For Petitioners: Mr.M.Vaikunth

For Respondent : No appearance

सत्यमेव जयते
O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.3 of 2019 pending on the file of the learned Judicial Magistrate, At Kallakurichi.

2. The petitioners are the husband and in-laws of the respondent and the marriage between A1/V.Balaji and the respondent Viz., Sharmila was solemnized on 19.02.2018. Thereafter, the respondent and her husband started living separately from the matrimonial home. Under this circumstance, the respondent herein filed a petition under Domestic Violence Act in D.V.C.No.3 of 2019 on the file of the learned Judicial

Magistrate, Kallakurichi. 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.3 of 2019 is pending for trial. At this stage, the petitioners herein who are the husband and in-laws of the respondent pray to quash the proceedings in D.V.C.No.3 of 2019.

3. Heard Mr.M.Vaikunth, learned counsel for the petitioners.

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 2 to 4 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 the petitioners 2 to 4/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 2 to 4 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 petitioners 2 to 4. In the absence of the same, the proceedings as against these petitioners 2 to 4 cannot be maintained and consequently, the petitioners 2 to 4 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 D.V.C.No.3 of 2019 on the file of the learned Judicial Magistrate, Kallakurichi, insofar as the petitioners 2 to 4 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 5th of every English Calendar month to the credit of D.V.C.No.3 of 2019 on the file of the learned Judicial Magistrate, Kallakurichi, 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 D.V.C.No.3 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 as against the petitioners 2 to 4. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

lok

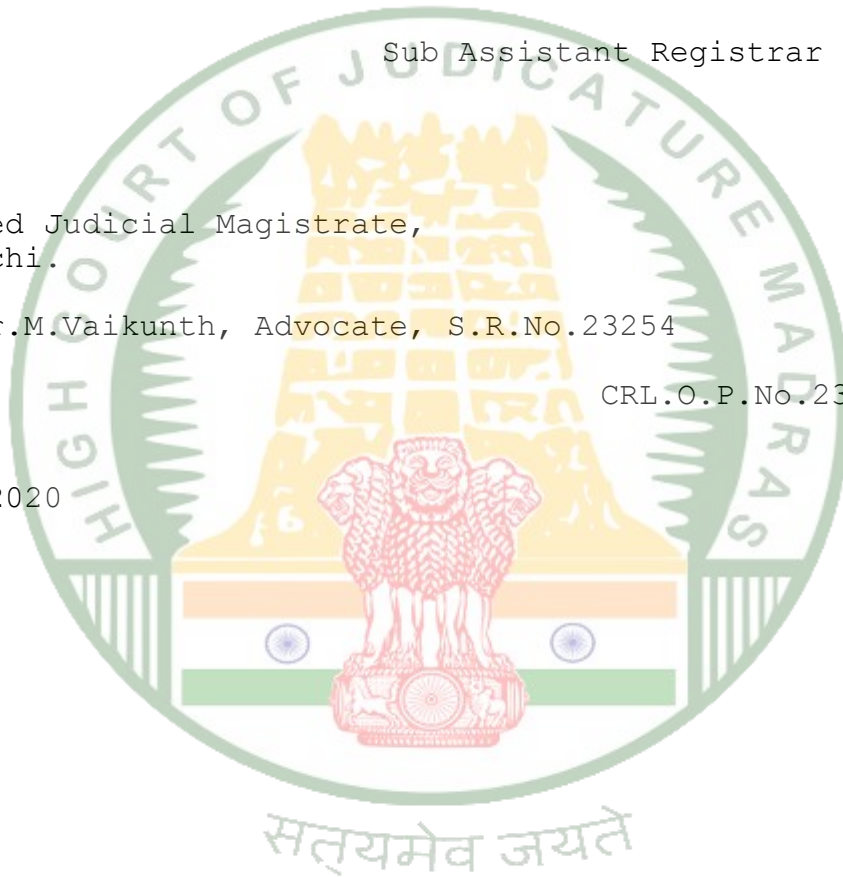
To

The learned Judicial Magistrate,
Kallakurichi.

+1cc to Mr.M.Vaikunth, Advocate, S.R.No.23254

CRL.O.P.No.23150 of 2019

GMR(CO)
CS/17/03/2020



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