

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2020

CORAM:

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

CRL.O.P.No.22132 of 2017

and CRL.M.P.Nos.12998 and 12999 of 2017

1.S.Suresh Kumar
2.S.Lakshmi
3.C.Shanmugam
4.S.Ramani
5.S.Ramesh

... Petitioners

Vs.

1.Kalaiarasi
2.Tejaasri
D/o.Suresh Kumar,
(Minor, represented by her mother and
Natural Guardian, the 1st respondent herein)

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to D.V.C.No.9 of 2016 pending on the file of the Judicial Magistrate, Tiruvottiyur, Chennai and quash the same.

For Petitioners : Mr.S.Sathiya Chandran
For Respondents : M/s.P.Prince Prem Kumar

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.9 of 2016 pending on the file of the learned Judicial Magistrate, Tiruvottiyur, Chennai.

2. The 1st petitioner is the husband of the 1st respondent and the petitioners 2 to 5 are in-laws of the 1st respondent and the marriage between 1st petitioner/Suresh Kumar and the 1st respondent Viz., Kalaiarasi was solemnized on 03.09.2010. Thereafter, due to matrimonial disputes the 1st respondent and her husband were living separately from the matrimonial home. Under this circumstance, the 1st respondent herein filed a petition under Domestic Violence Act in D.V.C. No.9 of 2016 on the file of the Judicial Magistrate, Tiruvottiyur, 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.9 of 2016 is pending for trial. At this stage, the petitioners herein who are the husband and in-laws of the 1st respondent pray to quash the proceedings in D.V.C.No.9 of 2016.

3. Heard Mr.S.Sathiya Chandran, learned counsel for the petitioners and Mr.P.Prince Prem Kumar, learned counsel appearing for the respondents.

4. It is seen that the relief sought for by the respondents 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 1st petitioner herein is the husband and the petitioners 2 to 5 are only in-laws of the 1st respondent and they are living separately. As such, the protection order sought for by the 1st 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 1st 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 2 to 5 cannot be maintained and consequently, the petitioners 2 to 5 need not undergo the ordeal of facing a criminal trial.

5. In view of the above, this Court is not inclined to quash the proceedings as against the 1st petitioner/husband in D.V.C.No.9 of 2016, on the file of the Judicial Magistrate Court, Tiruvottiyur, and this Court is inclined to quash the proceedings as against the petitioners 2 to 5 in D.V.C.No.9 of 2016, on the file of the Judicial Magistrate Court, Tiruvottiyur, insofar as these petitioners are concerned, on condition that, they shall ensure that the 1st petitioner/husband of the 1st 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.9 of 2016, on the file of the Judicial Magistrate Court, Tiruvottiyur, as ad-interim maintenance, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the 1st respondent is entitled to withdraw the same.

6. Insofar as 1st petitioner / husband of the 1st respondent is concerned, since the impugned proceedings in D.V.C.No.9 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. The 1st petitioner / husband of the 1st respondent is directed to appear before the trial Court on the next hearing date, failing which, the 1st respondent is at liberty to approach this Court.

7. In the result, this Criminal Original Petition stands allowed in respect of the petitioners 2 to 5 and dismissed in respect of the 1st petitioner/husband. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

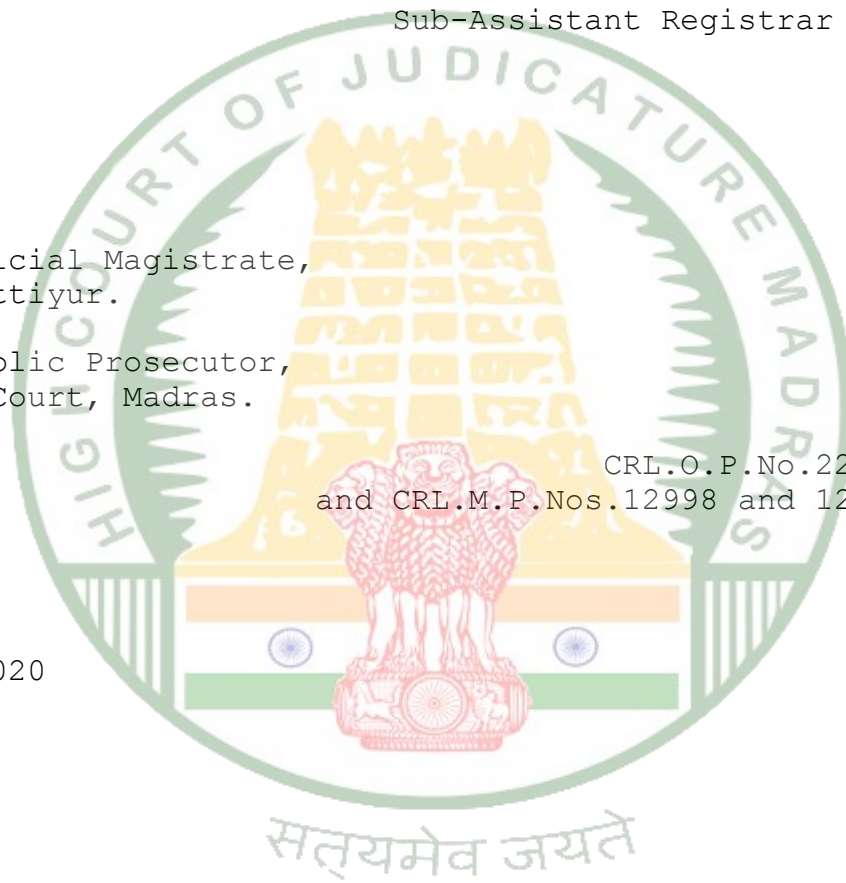
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To

1. The Judicial Magistrate,
Tiruvottiyur.
2. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.22132 of 2017
and CRL.M.P.Nos.12998 and 12999 of 2017

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