

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2020

CORAM:

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

CRL.O.P.No.31023 of 2019
and CRL.M.P.Nos.16888 & 16891 of 2019

1.L.Madhan Mohan

2.L.Vijaykumari

... Petitioners/Respondents

Vs.

K.Priya

...Respondent/Petitioner

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records relating in D.V.C.No.212 of 2019 on the file of Special Court for Protection of Women from Domestic Violence Act, Coimbatore and quash the petitioners part.

For Petitioners: Mr.G.Mohammed Aseef

For Respondent : No appearance

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.212 of 2019, filed by the respondent herein, pending on the file of Special Court for Protection of Women from Domestic Violence Act, Coimbatore.

2. The 1st petitioner is the husband of the respondent and the 2nd petitioner is the mother-in-law of the respondent and the marriage between 1st petitioner and the respondent Viz.,K.Priya was solemnized on 27.08.2004. Thereafter, due to matrimonial disputes the respondent and her husband were living separately from the matrimonial home. Under this circumstance, the respondent herein filed a petition under Domestic Violence Act in D.V.C.No.212 of 2019 on the file of Special Court for Protection of Women from Domestic Violence Act, Coimbatore 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.212 of 2019 is pending for trial. At this stage, the 1st petitioner is the husband and the 2nd petitioner is the mother-in-law of the respondent pray to quash the proceedings in D.V.C.No.212 of 2019.

3. Heard Mr.G.Mohammed Aseef, 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 2nd petitioner herein is only mother-in-law of the respondent and she is living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against these petitioners, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners 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 these petitioners. In the absence of the same, the proceedings as against the 2nd petitioner cannot be maintained and consequently, the 2nd petitioner need not undergo the ordeal of facing a criminal trial.

5. In view of the above, this Criminal Original Petition is dismissed insofar as the 1st petitioner is concerned, and this Court is inclined to quash the proceedings in D.V.C.No.212 of 2019, on the file of Special Court for Protection of Women from Domestic Violence Act, Coimbatore insofar as the 2nd petitioner is concerned, on condition that, they shall ensure that 1st petitioner/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.5 of 2018, on the file of Special Court for Protection of Women from Domestic Violence Act, Coimbatore, 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 1st petitioner/husband of the respondent is concerned, since the impugned proceedings in D.V.A.No.212 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. 1st petitioner/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. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CO-MDU)

//True Copy//

Sub Assistant Registrar

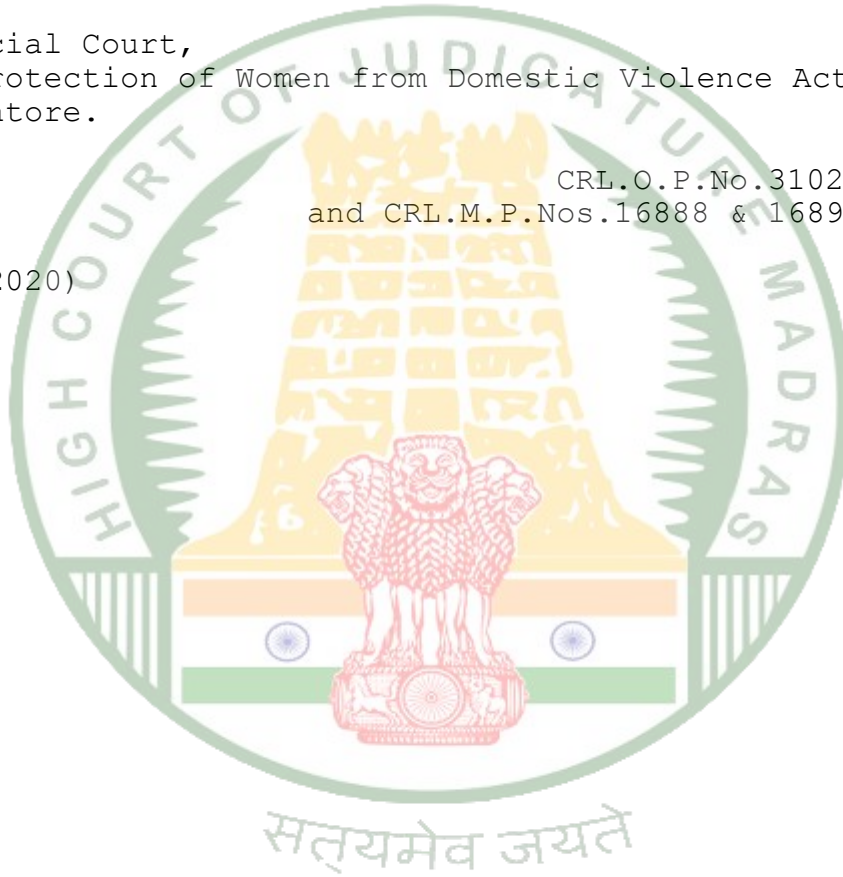
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To

1.The Special Court,
For Protection of Women from Domestic Violence Act,
Coimbatore.

CRL.O.P.No.31023 of 2019
and CRL.M.P.Nos.16888 & 16891 of 2019

RJI (CO)
CB(27/05/2020)



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