

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

CORAM:

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

CRL.O.P.No.31183 of 2019
and CRL.M.P.Nos.16995 & 16997 of 2019

1.M.Gopinath

2.T.Mani

3.M.Kumari

... Petitioners

Vs.

V.Rekha

....Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in DV.No.11 of 2018 pending on the file of the learned Judicial Magistrate Court No.1, Kancheepuram and quash the same against the petitioners.

For Petitioners: Mr.M.Jaikumar

For Respondent : Mr.K.G.Senthil Kumar

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.No.11 of 2018, filed by the respondent herein, pending on the file of the Judicial Magistrate Court No.I, Kancheepuram.

2. The petitioners are the husband and in-laws of the respondent and the marriage between A1/M.Gopinath and the respondent Viz.,V.Rekha was solemnized on 01.12.2016. Thereafter, due to matrimonial disputes the respondent and her husband were living together in the matrimonial home. Under this circumstance, the respondent herein filed a petition under Domestic Violence Act in D.V.A. No.11 of 2018 on the file of the Judicial Magistrate No.1, Kancheepuram and implicated the petitioners as parties to the petition and sought action as against them under Domestic Violence Act. The said D.V.No.11 of 2018 is pending for trial. At this stage, the second and third petitioners herein who are the in-laws of the respondent and the

first petitioner pray to quash the proceedings in D.V.No.11 of 2018.

3. Heard Mr.M.Jaikumar, learned counsel for the petitioners and Mr.K.G.Senthil Kumar, learned counsel appearing for the respondent.

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 second and third petitioners herein are only in-laws of the respondent. As such, the protection order sought for by the respondent herein in the domestic violence case against the petitioners 2 and 3 / 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 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 and 3. In the absence of the same, the proceedings as against these petitioners 2 and 3 cannot be maintained and consequently, the petitioners 2 and 3 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 DV.No.11 of 2018, on the file of the Judicial Magistrate Court No.1, Kancheepuram, insofar as the petitioners 2 and 3 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 DV.No.11 of 2018, on the file of the Judicial Magistrate Court No.1, Kancheepuram, 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 DV.No.11 of 2018 is pending from the year 2018 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. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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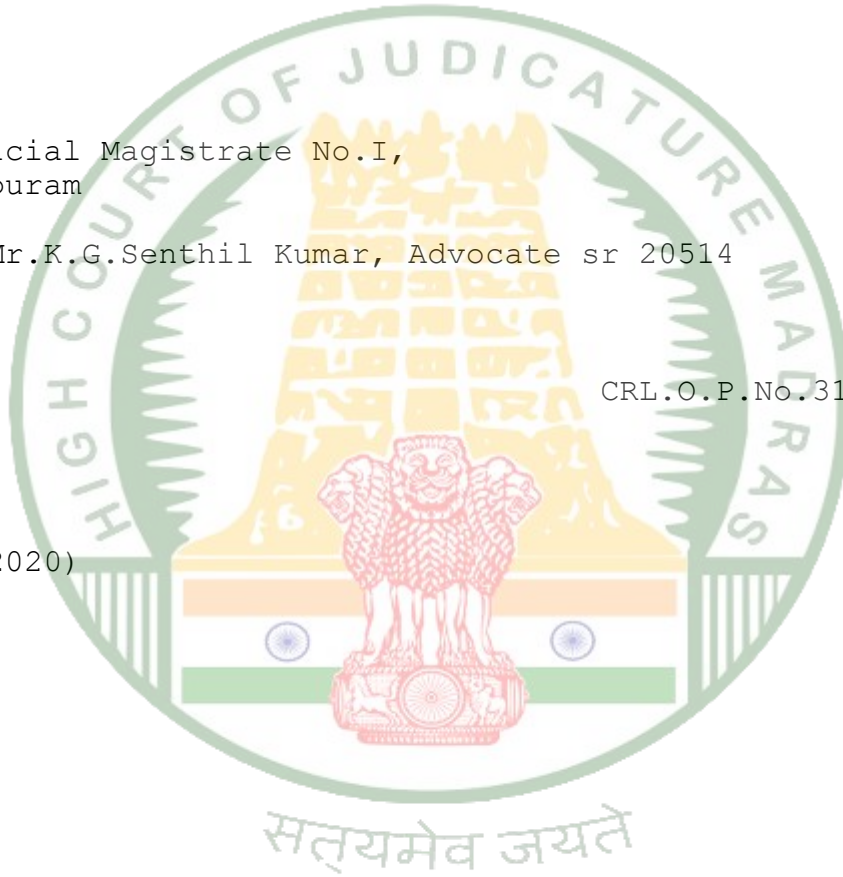
To

1.The Judicial Magistrate No.I,
Kancheepuram

+1 CC to Mr.K.G.Senthil Kumar, Advocate sr 20514

CRL.O.P.No.31183 of 2019

RSV(CO)
SP(30/05/2020)



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