

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2020

CORAM:

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

CRL.O.P.No.31911 of 2019
and CRL.M.P.Nos.17519 & 17521 of 2019

Santha ... Petitioner

Vs.

M.Sridevi @ Kalpana ...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in D.V.C.No.86 of 2019 pending on the file of the learned Metropolitan Magistrate - XVII, Saidapet, Chennai and quash the same.

For Petitioner : Mr.S.Makesh

For Respondent : Mr.B.K.Girish Neelakan

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C.No.86 of 2019, filed by the respondent herein, pending on the file of the learned Metropolitan Magistrate - XVII, Saidapet, Chennai.

2. The petitioner is the in-law of the respondent and the marriage between Al/C.Raja and the respondent Viz.,Sridevi @ Kalpana was solemnized on 01.06.2014. 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.86 of 2019 on the file of the learned Metropolitan Magistrate - XVII, Saidapet, Chennai, and implicated the petitioner as party to the petition and sought action as against them under Domestic Violence Act. The said D.V.C.No.86 of 2019 is pending for trial. At this stage, the petitioner herein who is the in-law of the respondent pray to quash the proceedings in D.V.C.No.86 of 2019.

3. Heard Mr.S.Makesh learned counsel for the petitioner and Mr.B.K.Girish Neelakantan 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 petitioner herein is only in-law of the respondent. As such, the protection order sought for by the respondent herein in the domestic violence case against the petitioner/in-law, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioner 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 petitioner. In the absence of the same, the proceedings as against the petitioner cannot be maintained and consequently, the petitioner 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.C.No.86 of 2019, on the file of the learned Metropolitan Magistrate - XVII, Saidapet, Chennai, insofar as this petitioner is concerned, on condition that, the petitioner 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 DVC.No.86 of 2019, on the file of the learned Metropolitan Magistrate-XVII, Saidapet, Chennai, 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 DVC.No.86 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. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

smv

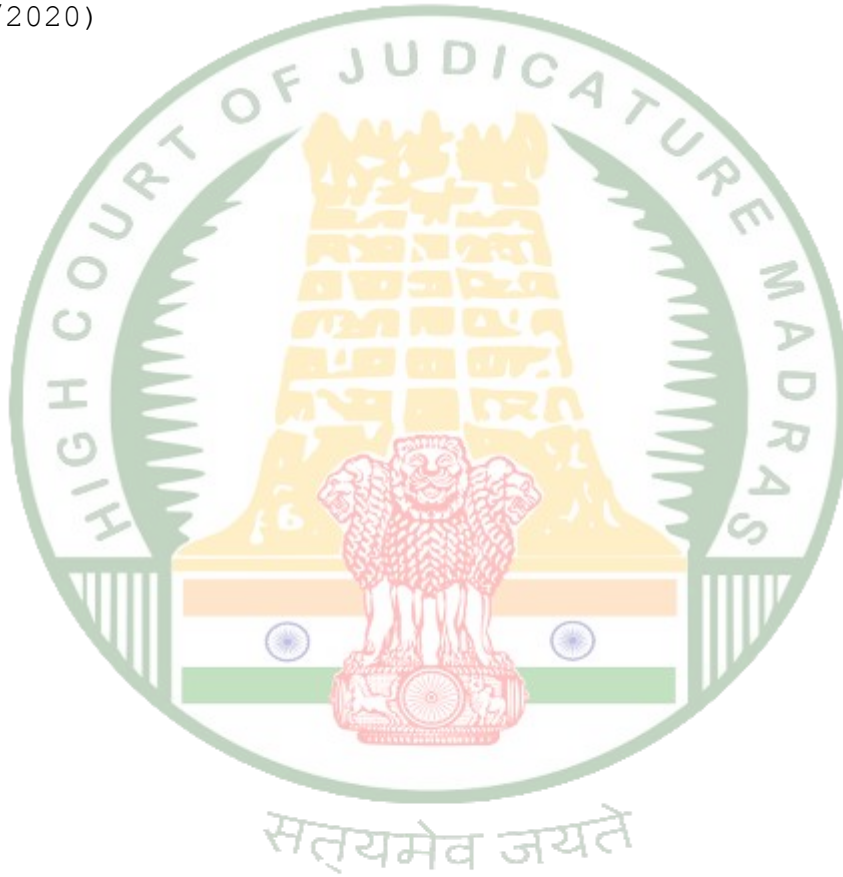
To

1.The Metropolitan Magistrate XVII, Saidapet, Chennai.

2.The Chief Metropolitan Magistrate, Saidapet, Chennai.

CRL.O.P.No.31911 of 2019

PP (CO)
RSI (22/05/2020)



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