

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.10620 of 2015

and

M.P.No.1 of 2015

Gayathri Karthik ... Petitioner

Vs

Jyotsna Sivakumar ... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.543 of 2015 pending on the file of the learned II Metropolitan Magistrate, Egmore, Chennai and quash the proceedings in so far as they relate to the petitioner.

For Petitioner : Mr.Raghunathan, SC
for Mr.T.I.Ramanathan

For Respondent : Ms.Geetha Ramaseshan

ORDER

The present criminal original petition has been filed to call for the records in C.C.No.543 of 2015 pending on the file of the learned II Metropolitan Magistrate, Egmore, Chennai and quash the proceedings in so far as they relate to the petitioner.

2. The petitioner has been arrayed as fourth respondent in the complaint filed by the respondent under Section 12 of the Protection of Women From Domestic Violence Act, 2005 (43 of 2005). She is the sister in law of the respondent / complainant.

3. The brief facts which are necessary to dispose of the issue involved in this petition, are as follows:-

(a) The petitioner is the elder sister of one Chandrasekar Sivaraman. She got married on 22.4.1999 with one M.Karthik in Chennai. The petitioner and her husband shifted to USA in the month of August, 2001 and they acquired citizenship of USA in August, 2010. The marriage between her brother Chandrasekar Sivaraman with the respondent took place in Chennai on 23.8.2012. The petitioner arrived at Chennai on 1.8.2012 with her husband and children to attend the said marriage. After the marriage function was over on 23.8.2012, she left India and went to USA on 28.8.2012. Therefore, her stay in Chennai after the marriage was only just five days.

(b) The petitioner's brother Chandrasekar Sivaraman was employed in Los Angeles, USA and after the marriage, his brother Chandrasekar Sivaraman and his wife, the respondent herein left for USA in September, 2012. They lived together till 2013. Due to the differences with her husband, the respondent came back to India in December, 2013. Thereafter, she did not went to USA. After her return to India, the respondent filed an application against her husband in the Family Court for restitution of Conjugal rights. Thereafter, she withdrew the same and filed a petition in O.P.No.3580 of 2014 against her husband for divorce and an exparte decree of divorce was also passed on 12.9.2015 by the learned Principal Judge, Family Court, Chennai in her favour. The respondent has also filed a complaint as against her husband Chandrasekar Sivaraman, father in law N.S.Sivaraman, mother in law Gowri Sivaraman and sister in law Gayathri Karthik, the petitioner herein. In the said complaint, she has sought for protection, compensation and interim maintenance. Now, the present petition has been filed to quash the said complaint in so far as they relate to the petitioner herein.

4. Learned senior counsel appearing for the petitioner has submitted that according to Section 2(a) of the Protection of Women From Domestic Violence Act, 2005 (hereinafter referred to as the Act), as an aggrieved person, she should have been in a domestic relationship with the respondent. However, in the present case, during the relevant period, admittedly, the petitioner was living along with her husband Karthik in USA. Further, Section 2(f) of the said Act refers to 'domestic relationship', which means a relationship between two persons, who live or have, at any point of time, lived together in a shared household. As per Section 2(s) of the Act, the meaning of the words 'shared household' for the limited purpose of the

present petition, is a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent. Admittedly, the petitioner and the respondent have not lived together in a shared household at any point of time. Therefore, the present proceeding is not maintainable as against the petitioner is concerned. In support of his contention, learned senior counsel appearing for the petitioner has also relied upon the judgment of the Hon'ble Supreme Court reported in (2013) 4 Supreme Court Cases 176 - Ashish Dixit and others v. State of Uttar Pradesh and another and the judgment of the Allahabad High Court reported in 2014 (3) Crimes 518 (All.) - Geeta & Ors v. State of U.P. & Anr.

5. Per contra, learned counsel appearing for the respondent vehemently opposed to quash the complaint as against the petitioner contending that the complaint is maintainable as against the petitioner.

6. However, learned senior counsel appearing for the petitioner has filed an affidavit of the petitioner before this Court, wherein the petitioner has stated as follows:-

"2. I reiterate the submission made in the petition that I am a US citizen. So are my husband and 2 children. I am employed as Vice President, Citi, a banking company in U.S.A.

3. I have, at no point of time, resided in a shared household with the petitioner either in Chennai or in U.S.A. There is absolutely no likelihood of my living in the company of the petitioner in future also. I respectfully submit that I have not committed any act of domestic violence on the petitioner in the past. In the aforesaid premise I humbly submit that I will not commit any act of domestic violence in future too. "

7. Considering the affidavit filed by the petitioner as well as the submission made by the learned senior counsel appearing for the petitioner, I am of the opinion, the proceedings in C.C.No.543 of 2015 are liable to be quashed as against the petitioner alone.

8. In fine, the criminal original petition is allowed and the proceedings in C.C.No.543 of 2015 pending on the file of the learned II Metropolitan Magistrate, Egmore, Chennai, are quashed in so far as they relate to the petitioner - Gayatri Karthik alone. The learned II Metropolitan Magistrate, Egmore, Chennai, is directed to dispose of the case in C.C.No.543 of 2015 as expeditiously as possible. Consequently,

connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

sbi

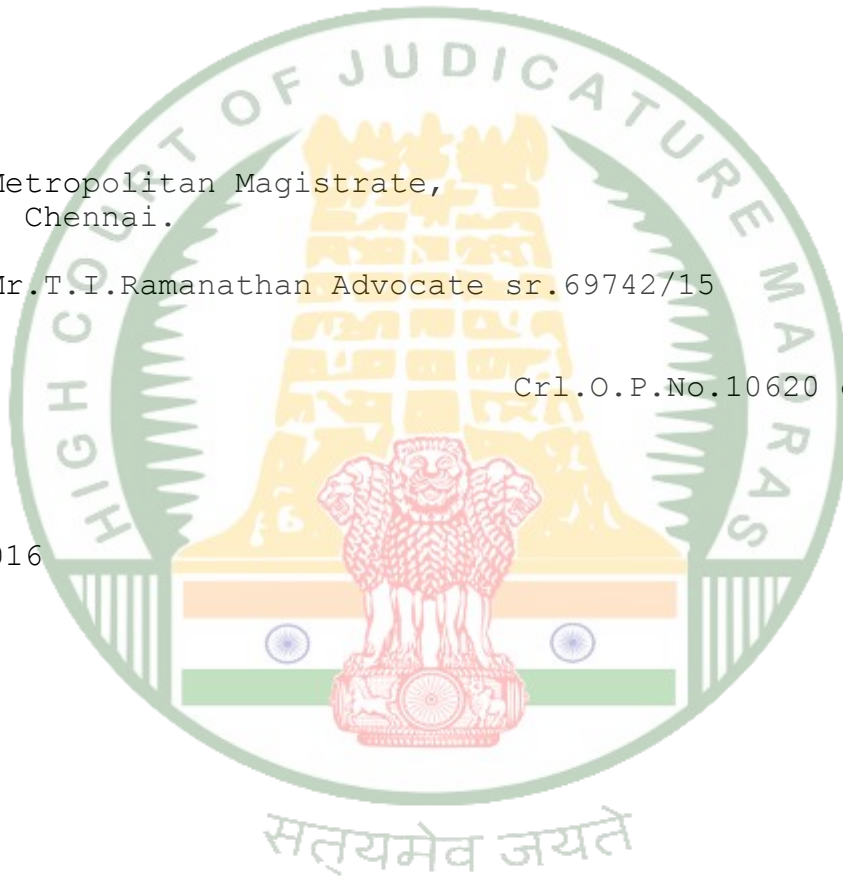
To

1.The II Metropolitan Magistrate,
Egmore, Chennai.

+1 cc to Mr.T.I.Ramanathan Advocate sr.69742/15

Cr1.O.P.No.10620 of 2015

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