

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2015

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

Cr1.R.C.No.1289 of 2014

G.Krishnaveni

...Petitioner

Vs

1. Boopathi
2. R.Neelamarayanan
3. Saroja

...Respondents

Criminal Revision filed under sections 397 and 406 of Criminal Procedure Code to call for the records and set aside the docketed order passed by the learned IX M.M. Saidapet, Chennai 600 015, made in M.C.No.42 of 2011, dated 30.09.2014 and order transfer of the above case in M.C.No.42 of 2011, from the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai 600 015, to the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai 600 015.

For Petitioner : Mr.L.Sankaran

O R D E R

Being aggrieved by the docket order in M.C.No.42 of 2011, dated 30.09.2014, on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai, the present revision case has been filed. Consequent to the setting aside the docket order, the petitioner has sought for a direction to transfer the abovesaid case to the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai 600 015. The impugned docket order, dated 30.09.2014, reads as follows:

"Complainant present. Not ready for ex-parte order. On verification of records, it is observed that the Court does not have jurisdiction. Hence, the above complaint is ordered to be presented before appropriate court, having jurisdiction, to entertain the above complaint. Call on 13.10.2014"

2. Adjudication proceedings in M.C.No.42 of 2011, shows that the matter is pending from 20.09.2011. On 08.10.2013, the respondent was absent. No counter affidavit was filed. Therefore, the 1st respondent was set exparte and ordered interim maintenance of Rs.2,000/- each, to be paid by the 1st respondent to the petitioner and her son. Residential order has also been passed, directing the respondents to make provision to the petitioner to reside at No.16, Nehru Street, MGR Nagar, Pallikaranai, Chennai. The Court below has directed the matter to be called on 08.11.2013. Thereafter on 27.01.2014, the 1st respondent was present. However, respondents 2 and 3 were absent. As the 1st respondent was already set ex parte, his vakalat was not entertained. Hence, the Court below has directed to be called on 17.02.2014, for ex parte evidence. Thereafter, the matter stood adjourned. On 01.08.2014, the complaint has filed a proof affidavit and marked Exs.P1 to P3. For marking further documents, the matter was directed to be called on 20.08.2014. On 05.09.2014, Exs.P4 to P10 were marked. On 30.09.2014, the abovesaid docket order has been made by the learned IX Metropolitan Magistrate, Chennai, against which, the present revision case has been filed.

3. It is the case of the petitioner that she is residing within the jurisdiction of the XVIII Metropolitan Magistrate, Saidapet, Chennai 600 015 and therefore, there is no difficulty in transferring this case. To ascertain, as to when, the learned IX Metropolitan Magistrate, Chennai, was divested with all the cases, within the jurisdiction of the Police Station, where the petitioner was residing, a report of the Chief Metropolitan Magistrate, was sought for, wherein, he has stated that considering the representation of the Bar Association, Saidapet, Chennai and proposal of the Chief Metropolitan Magistrate, this Court, vide proceedings in R.O.C.No.2353/2010/G4, dated 09.03.2011, has directed the Chief Metropolitan Magistrate, to transfer the jurisdiction of J6 and J7 Police Stations from IX Metropolitan Magistrate's Court, Saidapet to XVIII Metropolitan Magistrate's Court, Saidapet, Chennai-15. Similar directions were also given in respect of R5 and W26 Police Stations. Accordingly, proceedings were issued in R.O.C.No.474/2011/D, dated 14.03.2011, with effect from 16.03.2011. Consequent to the abovesaid proceedings, all the cases of J6 and J7 Police Stations, pending on the file of the IX Metropolitan Magistrate, Saidapet, Chennai-15, were ordered to be withdrawn and transferred to the file of the XVIII Metropolitan Magistrate's Court, Saidapet, Chennai-15.

4. Upon perusal of the present case records, the Chief Metropolitan Magistrate, Chennai, has stated that M.C.No.42 of 2011, under the Domestic Violence Act, was taken on file on 16.08.2011, by the then IX Metropolitan Magistrate, Saidapet, Chennai, without

territorial jurisdiction and that the same ought to have been returned at the earliest. Inadvertently, interim order has been passed on 08.10.2013, without returning the same immediately.

5. The IX Metropolitan Magistrate, Saidapet, Chennai, in his letter, dated 28.01.2015, to the Chief Metropolitan Magistrate, Chennai, has stated that she was under the impression that the above case was called, in accordance with the procedure. She has also stated that there was no objection, either by the parties or their respective counsel, regarding jurisdiction. Since the 1st respondent was absent and he was set ex parte, an ex parte interim order was passed in the open Court.

6. The IX Metropolitan Magistrate, Saidapet, Chennai, has further stated that at the time, when the interim ex parte order was passed, the Court was under the bona fide impression that the case falls within its jurisdiction. Subsequently, ex parte evidence was also taken. Exs.P1 to P10 were marked. Only after perusal of the entire records, it came to light, the complaint ought to have been sent to the 18th Metropolitan Magistrate and in the abovesaid circumstances, the docket order was passed on 30.09.2014.

7. Residence of the complainant falls within the jurisdiction of the XVIII Metropolitan Magistrate, Saidapet, Chennai 600 015 and inasmuch as, there already a protection by the Chief Metropolitan Magistrate, vide proceedings, dated 28.01.2015, there shall be an order, directing transfer of M.C.No.42 of 2011, from the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai, to the learned XVIII Metropolitan Magistrate, Saidapet, Chennai 600 015.

8. With the above direction, the present Criminal Revision Case is allowed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

skm

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To

1. The IX Metropolitan Magistrate,
Saidapet, Chennai 600 015.
2. The XVIII Metropolitan Magistrate,
Saidapet, Chennai 600 015.
3. The Chief Metropolitan Magistrate,
Egmore, Chennai - 8.

Cr1.R.C.No.1289 of 2014

KJI (CO)
PSI (22.06.2015)



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