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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2015

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

CRL.R.C.No.66 of 2015

and

M.P.No.1 of 2015

R.Jagadeesan

... Petitioner/3rd Respondent

vs.

M.Mogana

... Respondent/Petitioner

PRAYER: Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code to set aside the order of the learned XVIII Metropolitan Magistrate, Saidapet, in dismissing MP No.49 of 2015 in CMP No.2301 of 2014 in MC No.92 of 2014, dated 09.01.2015.

For Petitioner : Mr.G.L.Ramshankar

JUDGMENT

Petitioner is the father-in-law of the respondent. Others are in laws. MC No.92 of 2014 has been filed for the following reliefs:

"1.Protection order directing the respondents to allow and enter the petitioner to her matrimonial home.

2.Protection order directing the respondents not to disturb the petitioner's peaceful residence in her matrimonial home at Old No.21, New No.33, R.K.Mutt Road, Mylapore, Chennai.

3.Directing the Officer in charge of the nearest Police Station within local limits of the applicant jurisdiction to give protection and assist her."

2. CMP.No.2301 of 2014 has been filed for a protection order, directing the petitioner and other in-laws, not to disturb the respondent's peaceful residence in her matrimonial home at Old No.21, New No.33, R.K.Mutt Road, Mylapore, Chennai. After hearing the parties and considering the documents, averments made in CMP.No.2301 of 2014 and in the counter affidavit and submissions made by the respective parties, the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, by order dated 03.09.2014, directed the petitioners herein, not to disturb the respondent's peaceful residence at Old No.21, New No.33, R.K.Mutt Road, Mylapore, Chennai, within 15 days from the date of the order made in CMP No.2301 of



2014. Father-in-law has filed MP No.49 of 2015 in MC No.92 of 2014 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, to vacate the interim order, directing the petitioner and others, not to disturb the petitioner's residence in the matrimonial home, as stated supra.

3. Wife has filed a detailed counter affidavit, in which she has contended that as per the interim order, dated 03.09.2014, made in CMP No.2301 of 2014, she has been residing in a separate room in the abovesaid address, none of the residents including the husband, talks to her and that she has not been allowed to use the kitchen for preparing food, besides, CCTVs have been fixed to monitor her activities. It is also the contention that along with her two sons, she is residing in the abovesaid address.

4. After considering the rival submissions and observing that installation of CCTVs to monitor the activities of a woman by her relatives would attract violation of human rights and further by observing that even if the criminal case or DV Case is conducted expeditiously, the same would be over within a month, the learned XVIII Metropolitan Magistrate, Saidapet, dismissed M.P.No.49 of 2015. The Court below has also observed that instead of conducting the DV case, filing of an interim application and thereby, attempting to protract the main case would also attract the provisions of the Protection of Women from Domestic Violence Act, 2005.

5. Though Mr.G.L.Ramshankar, learned counsel for the petitioner assailed the correctness of the order made in MP.No.49 of 2015 dated 09.01.2015 on the ground inter alia that the Court below ought to have considered the case of the petitioner in proper perspective, while he had come forward to make an alternative arrangement enabling the respondent/wife to stay, in some other place for which the expenses would be borne by the petitioner and others, this Court is not inclined to accept the said submissions.

6. Though Section 19(f) of the Protection of Women from Domestic Violence Act, 2005, enables the Magistrate to pass an order, directing the respondent to secure same level of alternate accommodation for the aggrieved person, as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require, material on record discloses that the respondent/wife has been permitted to stay in a separate room, in her matrimonial home at Old No.21, New No.33, R.K.Mutt Road, Mylapore, Chennai. Residence order has been granted on 03.09.2014. Supporting affidavit to the petition for cancellation of the residence order dated 03.09.2014 has been made on 18.09.2014, i.e., within 15 days from the earlier order. However, the said petition seemed to have numbered in the year 2015.

7. Material on record discloses that the respondent is residing in a separate room. Contention that CCTVs have been installed by the



petitioner, have not been disputed. However, while taking note of installation of CCTVs, the Court below has arrived at a conclusion that installation of CCTVs and monitoring the activities of a woman, is in violation of human rights.

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8. During the course of hearing, Mr. G. L. Ramshankar, learned counsel for the petitioner submitted that such observation has not been based on any evidence and it would cause prejudice to the interests of the petitioner and others. It is the further submission that without any evidence, the Court below has come to a conclusion that the respondent was not permitted to enter into the kitchen. It is the further submission that the observation and finding of the learned Magistrate, at the interlocutory stage would cause serious prejudice to the interest of the petitioner and others, in the main case and for other reasons stated supra, prayed to set aside the order made in CMP No. 49 of 2015, dated 09.01.2015 in MC No. 92 of 2014. This Court is not inclined to set aside the order on the grounds raised but, inclined to direct the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, to complete the trial in the main case, within a period of two months and pass orders on merits and in accordance with law, from the date of receipt of a copy of this order, without being influenced by the observations and findings at this interlocutory stage. If there is any material evidence, adduced during the trial, it is always open to the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, to consider the same and arrive at the finding on the issues.

With the above observations, Revision Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar

mps

To

1. The XVIII Metropolitan Magistrate,
Saidapet, Chennai.



2.The Public Prosecutor,
High Court of Madras,
Chennai.

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+1cc to M/S.G.L.Ramshankar Advocate Sr.4691

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and
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RSI (CO)
rvr 23/02/2015