

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2016

CORAM

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

CrI.R.C.No.860 of 2016
and
CrI.MP.6567 of 2016

1.Kumaresan

2.Umadevi ... Petitioners/Respondents

Vs.

Manu Priya ... Respondent/Petitioner

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order dated 17.11.2015 made in CrI.MP.No.2969 of 2015 in MC.No.17 of 2015 on the file of the XXIII Metropolitan Magistrate, Saidapet, Chennai.

For Petitioners : Mr.K.M.Subramaniam

For Respondent : Mr.P.Raja

ORDER

The criminal revision petition is directed against the order passed by the learned XXIII Metropolitan Magistrate, Saidapet, Chennai made in CrI.MP.No.2969 of 2015 in MC.No.17 of 2015 dated 17.11.2015, dismissing the discharge petition filed by the petitioners.

2.Heard both sides.

3.The present petitioners are the respondents in MC.No.17 of 2015. The respondent herein filed a private complaint under Section 12 of the Protection of Women From Domestic Violence Act seeking for the relief under Sections 18, 20 and 22 of the above said Act.

4. The learned counsel for the revision petitioners contended that the trial Court has no jurisdiction to try the

case, since the first petitioner/husband and the respondent/wife are not living together within the jurisdiction of Chennai limit.

5.Per contra, the learned counsel for the respondent contended that the trial Court has jurisdiction to take up the case, as the respondent/wife is residing at No.85, CP.Ramasamay Road, Alwarpet, Chennai-18 and the trial Court has jurisdiction to try the case under the above said Act.

6.It is useful to extract definition of Section 2(i) of the Protection of Women From Domestic Violence Act which reads as follows :-

"Section 2(i) Magistrate means the judicial Magistrate of the first class, or as the case may be the Metropolitan Magistrate, exercising jurisdiction under the Code of Criminal Procedure, 1973 (2 of 1974) in the area where the aggrieved person resides temporarily or otherwise or the respondent resides or the domestic violence is alleged to have taken place."

7.It is not disputed on the side of the petitioners that the respondent is residing in the city of Chennai. On reading of the above said provisions of the Domestic Violence Act, the respondent is entitled to file a compliant before the Magistrate of first class, who is exercised under Jurisdiction of Cr.PC in the area of the aggrieved person resides. Hence, the petition filed by the respondent before the concerned Court is legally maintainable.

8.In the above said circumstances, it is useful to extract Section 29 of the Protection of Women From Domestic Violence Act which reads as follows :-

"29. Appeal :- There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later."

9.In this case, the learned XXIII Metropolitan Magistrate, Saidapet, Chennai rejected the claim of the revision petitioners for discharge. Aggrieved over the said order, the revision petitioners are before this Court. It is also represented by both parties, that during the pendency of the revision petition, the parties have settled the matter before the trial Court. This court finds no illegality or infirmity in the order passed by the learned XXIII Metropolitan Magistrate, Saidapet, Chennai and the same does not warrant any interference by this court.

10.In the result, the criminal revision petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.The XXIII Metropolitan Magistrate,
Saidapet, Chennai.

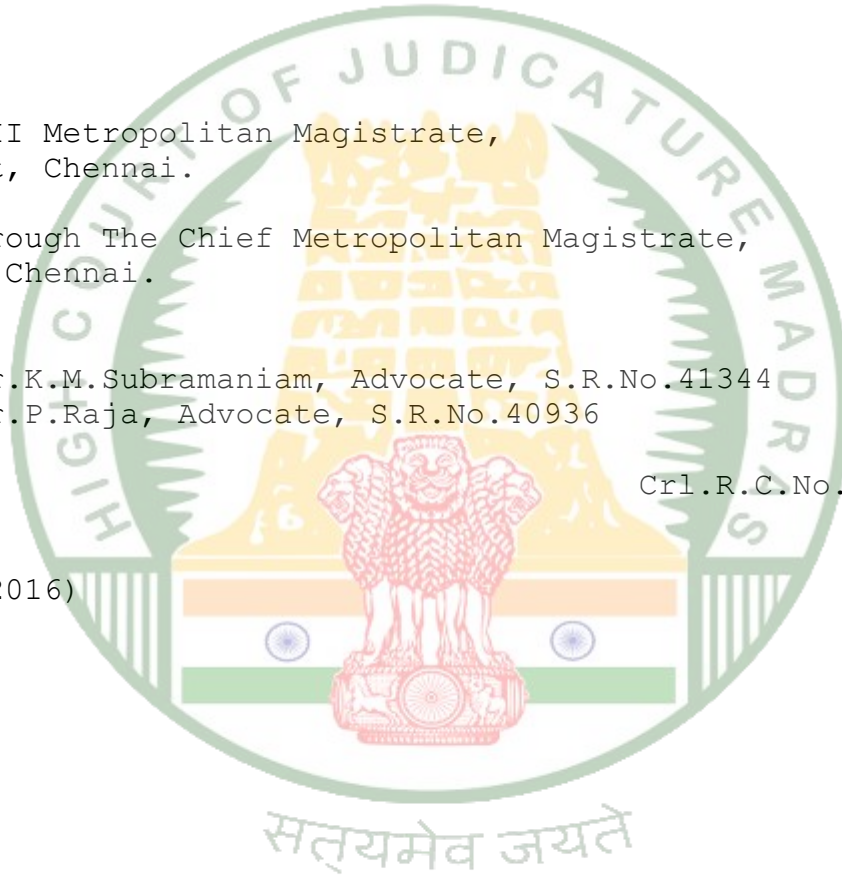
2.-Do- Through The Chief Metropolitan Magistrate,
Egmore, Chennai.

+1cc to Mr.K.M.Subramaniam, Advocate, S.R.No.41344

+1cc to Mr.P.Raja, Advocate, S.R.No.40936

Cr1.R.C.No.860 of 2016

GJ(CO)
CA(27/07/2016)



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