

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2017

CORAM

THE HONOURABLE Mr.JUSTICE N.AUTHINATHAN

CRL.A.No.444 of 2017

D.Vidhya

... Appellant

Vs

1. R.Saravana Kumar

2. A.Rajasekaran

3 . R.Shenbagavalli

... Respondent

PRAYER: Criminal Appeal filed under Section 378 of Cr.P.C.to set aside the order dated 10.02.2017 made in M.C.No.15 of 2012 on the file of the Judicial Magistrate Court, Harur, Dharmapuri and allow the above Criminal Appeal.

For Petitioner : Mr.N.Vijayabasker

For Respondent : Mr.R.Jayaprakash

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ORDER

The appellant is the wife of Saravanakumar, the first respondent herein. The 2nd and 3rd respondents are the father and mother respectively of the first respondent. The marriage between the petitioner and the first respondent took place on 06.02.2012. However, difference of opinion has arisen between the husband and wife and the petitioner herein has filed an application in M.C.No.15 of 2012 before the Judicial Magistrate, Harur, under Section of 12 of the Protection of Women from Domestic Violence Act, 2005 and prayed for protection orders, residence orders, monetary reliefs and compensation orders. The respondents have entered appearance before the Magistrate. It appears that pending disposal of the application, the respondents have approached this court by way of filing Crl.O.P.No.10866 of 2013. This court by an order dated 25.04.2013, granted interim stay of the proceedings before the Magistrate Court, till the completion of mediation process. It appears that the matter has not been settled and the matter was returned to the court and said Crl.O.P.No.10866 of 2013 is still pending.

2. In the meantime, the Magistrate had passed an order in M.C.No.15 of 2012, for appearance of the petitioner herein and for filing counter by the respondents. It appears that counter has not been filed. The matter was taken up on 10.02.2017. The petitioner herein has failed to appear on that date before the Magistrate Court and hence the petition in M.C.No.15 of 2012 was dismissed for default on 10.02.2017.

3. It is seen from the records that the petition in M.C.No.15 of 2012 was previously dismissed on 27.03.2014 under Section 256 of Cr.P.C., as she had failed to make her appearance before the Magistrate Court. Against that order of dismissal, the petitioner had approached this court by way of CrI.A.No.570 of 2015. This Court allowed the Appeal by order dated 08.10.2015 and directed the Magistrate to restore the petition to file. Thereafter, the impugned order has been passed on 10.02.2017.

4. Admittedly, the CrI.O.P.No.10866 of 2013 is still pending on the file of this court. Having regard to the pendency of the Criminal Original Petition on the file of this court and having taken note of the reliefs asked for by the petitioner, who is the wife of the first respondent, I am inclined to allow the petition.

5. In the result, this Criminal Appeal is allowed thereby setting aside the order dated 10.02.2017 made in M.C.No.15 of 2012 on the file of the Judicial Magistrate Court, Harur, Dharmapuri. No costs.

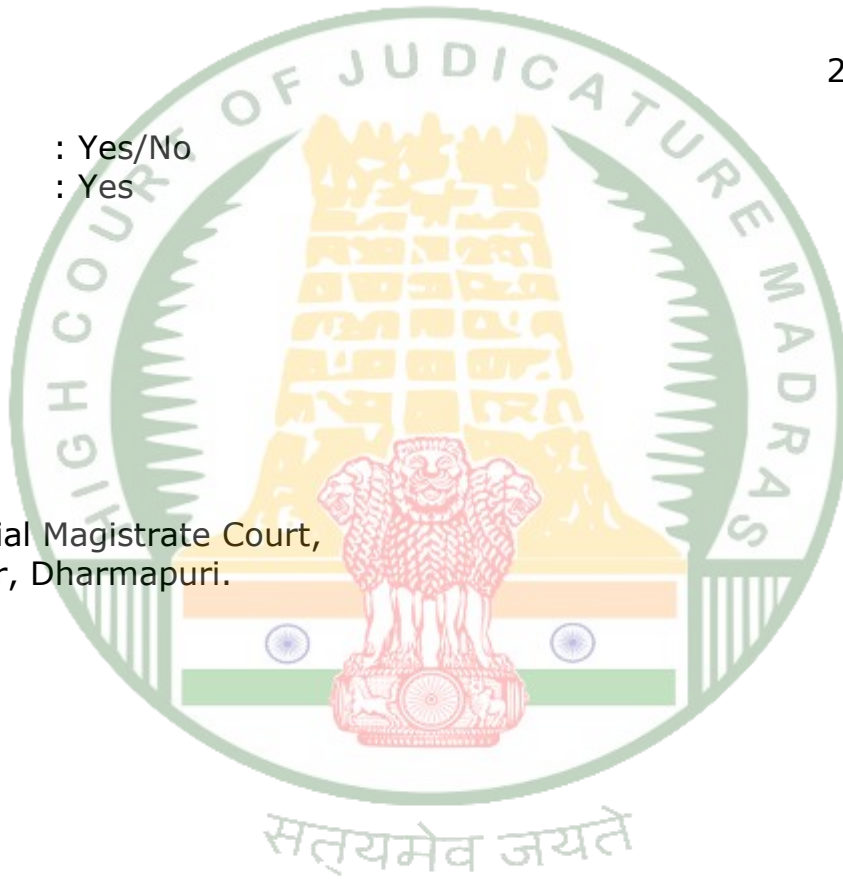
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To

1. Judicial Magistrate Court,
Harur, Dharmapuri.



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N.AUTHINATHAN, J.

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