



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.OP.(MD) No.11749 of 2017

and

CRL. MP(MD) No.8092 of 2017

H.Moshina

... Petitioner/Respondent/Petitioner.

Vs.

1.S.N.Altab Batcha

2.S.Syed Nazir Batcha

3.S.Subetha Begum

...Respondents/Petitioners/Respondents.

PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the order in Cr.M.P.No.1962 of 2017 in M.C.No.20 of 2015 dated 09.06.2017 passed by the learned Judicial Magistrate (Additional Mahila Court), Madurai and to set aside the same.

For Petitioner

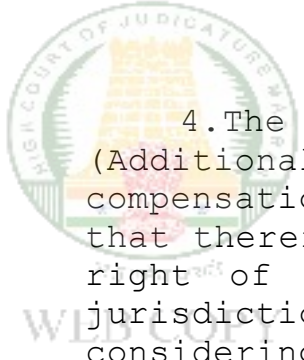
: Mr.S.M.A.Jinnah

ORDER

The Criminal Original Petition has been filed to call for the records pertaining to the order in Cr.M.P.No.1962 of 2017 in M.C.No.20 of 2015 dated 09.06.2017 passed by the learned Judicial Magistrate (Additional Mahila Court), Madurai and to set aside the same.

2.It is the case of the petitioner that his wife filed a petition for various reliefs against the petitioner. The said petition was filed under Section 12 of Domestic Violence Act. It is stated that the respondents who are the husband and in laws of the petitioner, filed a petition to dispense with their presence. The said petition was allowed by the lower Court by order dated 09.06.2017. Challenging the said order, the present petition is filed.

3.The learned Counsel for the petitioner submitted that though respondents 2 and 3 are aged persons, there is some justification for dispensing with their presence. In as much the first respondent is concerned, it is stated that he has committed cruelty and therefore his presence should not be dispensed with.



4.The proceedings before the learned Judicial Magistrate (Additional Mahila Court), Madurai, is only for claiming compensation and for other reliefs from the first respondent and that therefore the personal appearance of the respondents is not a right of the complainant. It is for the lower Court, having jurisdiction to dispense with the presence of the respondents considering facts. In such view of the matter, this Court is not inclined to entertain this petition and interfere with the discretionary power of the Lower Court. Hence this Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

5.The learned Counsel for the petitioner further states that the matter is pending for a long time and that therefore this Court may direct the lower Court to dispose of the case in M.C.No.20 of 2015 within the time stipulated by this Court.

6.Considering the nature of grievance and fact that the earlier disposal will be advantageous to both parties, the learned Judicial Magistrate (Additional Mahila Court), Madurai is directed to complete the trial and dispose of the case in M.C.No.20 of 2015, as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar.

To
The Judicial Magistrate,
(Additional Mahila Court),
Madurai.

+1CC to Mr.S.M.A.Jinnah, Advocate, SR.No. 77089

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and
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cmr
AM/KP/SAR 1/26.09.2017/2P/3C