



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE P.N.PRAKASH**

Crl.O.P.(MD)No.2766 of 2017

and

Crl.M.P.(MD)No.2109 of 2017

1.Gnana Raja

2.Kalaiselvi

3.Annamalar

: Petitioners

Vs.

M.Shanthi Christy Bai

: Respondent

**Prayer :** Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to set aside the order passed in Cr.M.P.No.9385 of 2015 in Cr.M.P.No.4789 of 2014 dated 01.02.2016, on the file of the learned Principal District Munsif -cum- Judicial Magistrate, Nanguneri.

For Petitioners

: Mr.H.Arumugam

### **O R D E R**

For the sake of convenience, the parties should be referred to by name.

2. Shanthi Christy Bai has initiated proceedings under the Domestic Violence Act against her husband Gnana Raja and his relatives in Cr.M.P.No.4789 of 2014 before the Principal District Munsif -cum- Judicial Magistrate, Nanguneri.

3. It is the contention of Shanthi Christy Bai that her husband Gnana Raja is addicted to liquor. On her behalf, she examined one Dr.Paneerselvam as P.W.2 on 21.09.2015 and the discharge summary relating to Gnana Raja was marked as Ex.P.5. Gnana Raja did not cross-examine Dr.Paneerselvam till date. In the meantime, Gnana Raja took a plea that Ex.P.5 is a computer generated report and is a forged document. Therefore, Shanthi Christy Bai filed Cr.M.P.No.9385 of 2015 in Cr.M.P.No.4789 of 2014 under Section 91 of the Code of Criminal Procedure for summoning the medical records of Gnana Raja from the Sneha Mind Care Centre, Tirunelveli, which was allowed by the Trial Court on 01.02.2016, ~~Cr.M.P.No.9385 of 2015~~ which, Gnana Raja has filed the present petition on 06.04.2016.



4. Heard Mr.H.Arumugam, learned counsel for Gnana Raja. He submitted that the Trial Court ought not to have allowed the petition, inasmuch as Dr.Paneerselvam has been examined and Ex.P.5 has been marked. He further contended that Shanthi Christy Bai has filed the petition only to protract the proceedings and to fill up the lacunae.

5. This Court gave its anxious consideration to the submissions made by the learned counsel for Gnana Raja.

6. The proceedings under the Domestic Violence Act is not a criminal prosecution stricto sensu. The proceedings under the Domestic Violence Act is essentially civil in nature and, therefore, in order to prove that Gnana Raja was taking treatment for alcoholic addiction in Sneka Mind Care Centre, Shanthi Christy Bai has filed the petition under Section 91 of the Code of Criminal Procedure. Hence, it cannot be stated that this petition is for filling up of any lacuna. It must be remembered that Gnana Raja has not even cross- examined Dr.Paneerselvam.

7. In the result, this Court does not find any infirmity in the impugned order passed by the Trial Court. Hence, this petition is dismissed. However, as and when any records are produced before the Trial Court, photocopies of the same shall be furnished to Gnana Raja, so that, he can cross-examine the witness effectively. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Principal District Munsif -cum- Judicial Magistrate,  
Nanguneri.

+1 cc to MR.H.Arumugam,ADVOCATE, SR No.14362

**Order made in  
Crl.O.P. (MD)No.2766 of 2017  
13.03.2017**

SML/MR

MKV-SV-MMS/20.3.2017/2P-3C