

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2018

CORAM

THE HONOURABLE Mrs.JUSTICE R.HEMALATHA

CRL.O.P.No.28060 of 2012

and

M.P.No.1 of 2012

Mohanmmmed Hussian .. Petitioner/Respondent

Vs

1.The Protection Officer,
Domestic Violence Act,
Chennai-600 001.

2.Dhilhad Begam ... Respondents/Complainant

Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records in M.P.No.2569 of 2012 pending on the file of XIII Metropolitan Magistrate Court at Egmore and quash the same.

For Petitioner : Mr.B.Jawahar
For R1 : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)
For R1 : Mr.T.P.Sekar

O R D E R

The petitioner is the respondent in M.P.No.2569 of 2012 on the file of the XIII Metropolitan Magistrate, Egmore, Chennai. The second respondent is the wife of the petitioner. Based on her complaint, the Protection Officer, Social Welfare Department, preferred a complaint before the XIII Metropolitan Magistrate, Egmore, Chennai in M.P.No.2569 of 2012 for the alleged offences under Sections 18, 19, 20, 21 and 22 of the Protection of Woman from Domestic Violence Act, 2005. The XIII Metropolitan Magistrate, Egmore, Chennai took cognizance of the offences and issued summons to the petitioner herein.

2.Mr.B.Jawhar, learned counsel appearing for the petitioner would contend that since the marriage was dissolved between the petitioner and the second respondent on 05.11.2011, she cannot maintain a complaint under the Protection of Woman from Domestic Violence Act, 2005.

3.It is to be pointed out that the Protection of Women from Domestic Violence Act, 2005 does not distinguish between the wife and a divorced wife and even covers the act of violence committed by the husband prior to coming into the force of the Act and this Act can be applied even retrospectively. The Domestic Violence Act, 2005 was enacted to provide effective protection to women, and as per Section 2 (a) of the Act, the aggrieved person or a woman, who was in domestic relationship with the respondent at any point time is an aggrieved person and the contention of the learned counsel for the petitioner that in view of the divorce between the petitioner and the second respondent, the second respondent cannot maintain the petition under the Protection of Women from Domestic Violence Act, 2005, cannot be accepted. The Honourable Supreme Court in the decision of Smt.Sabana @ Chand Bai and another Vs. Mohd.Talib Ali and another reported in 2012 3 SCC 183 has extensively dealt with the Domestic Violence Act and it is clear from the decision that a woman, who was in domestic relationship with the respondent at any point of time was subjected to psychical and mental cruelty is entitled to file a petition under the Domestic Violence Act, 2005.

4.Therefore, I do not find any reason to quash the proceedings in M.P.No.2569 of 2012 on the file of the XIII Metropolitan Magistrate, Egmore, Chennai. Since the matter is pending from the year 2012, the XIII Metropolitan Magistrate, Egmore, Chennai is directed dispose of the case within a period of six months from the date of receipt of a copy of this order.

5.With the above observations, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

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To

1.The Protection Officer,
Domestic Violence Act,
Chennai-600 001.

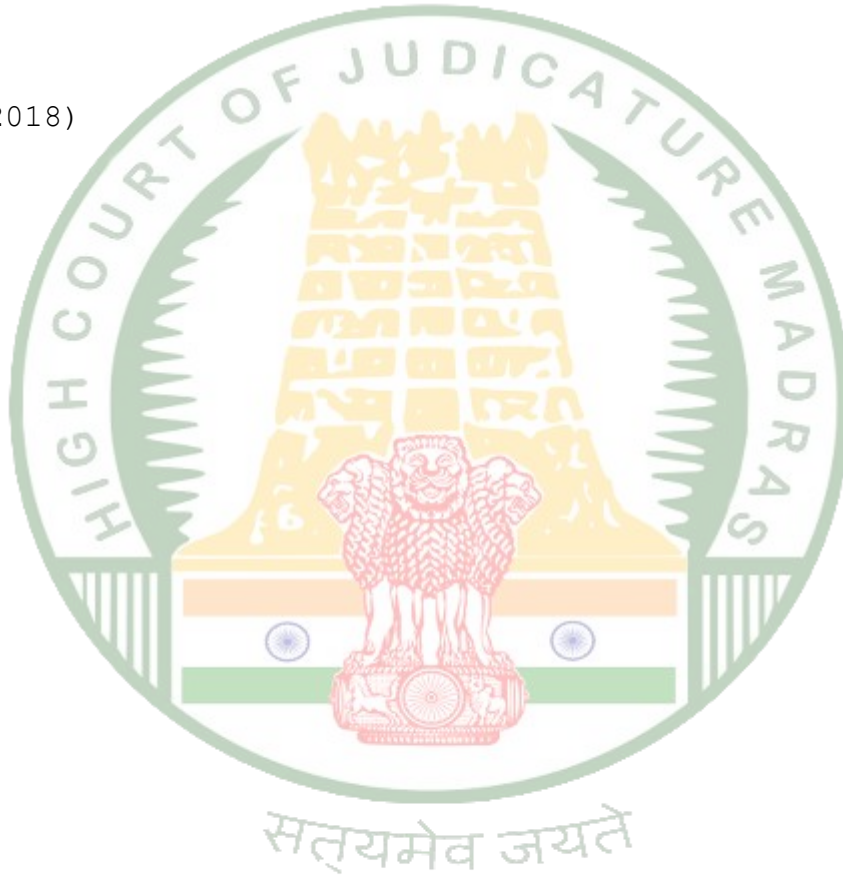
2. The XIII Metropolitan Magistrate,
Egmore, Chennai.

3. Do thro
The Chief Metropolitan Magistrate,
Egmore, Chennai.

4.The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.28060 of 2012

SR(CO)
TR(11/08/2018)



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