

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos.8764 of 2017 and 2095 of 2018

1.N.B.Riyas Ahmed

2.C.Fazal Khan

3.Nasser Baghem

: Petitioners in Crl.O.P. 8764/2017

: Respondents in Crl.O.P. 2095/2018.

Vs.

L.M.D.Athiya Parveenm

: Petitioner in Crl.O.P. 2095/2018

: Respondent in Crl.O.P. 8764/2017.

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to transfer the proceedings in D.V.C. No.5 of 2017 on the file of the Judicial Magistrate at Gudiyatham to any of the Metropolitan Magistrate Court at Chennai.(in Crl.O.P.8764/2017)

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to direct the Judicial Magistrate, Gudiyattam to dispose of the case in D.V.C. No.5 of 2017 within the time frame as stipulated by this Court.(in Crl.O.P. 2095/2018)

Mr.T.Dharani: For Petitioner in Crl.O.P.2095/2018

For Respondent in Crl.O.P.8764/2017.

Mr.R.Tamilselvan: For Petitioner in Crl.O.P.8764/2017.

For Respondent in Crl.O.P.2095/2018.

COMMON ORDER

Crl.O.P.No.8764 of 2017 has been filed seeking to transfer the proceedings pending in D.V.C.No.5 of 2017 from the file of the Judicial Magistrate, Gudiyatham to any other Metropolitan Magistrate at Chennai.

2.Crl.O.P.No.2095 of 2018 has been filed seeking for a direction to the Judicial Magistrate, Gudiyatham to dispose of pending case in D.V.C. No.5 of 2017.

3.The learned counsel for the petitioner in Crl.O.P.No.8764 of 2017 would submit that the petitioner is facing life threat from the respondent and her family and the learned counsel placed reliance on certain messages sent by the respondent to the petitioner, threatening the petitioner. The learned counsel would further submit that it will cause inconvenience and

hardship, more particularly to the second and third petitioners to attend the proceedings since they have nothing to do with the alleged offence and they are only the Maternal Uncle and Maternal Aunt of the first petitioner. Therefore, the learned counsel would further submit that the proceedings will have to be transferred to any Court at Chennai.

4.The learned counsel for the respondent would submit that there are absolutely no materials to prove that there is a threat faced by the petitioner. The learned counsel would further submit that the present petition has been filed only to drag on the proceedings and the Domestic Violence petition has been pending before the Court below for more than a year. The learned counsel would further submit that the respondent nor her family members will involve themselves in any violence against the petitioner and no disturbance will be caused to the petitioner, at the time, when they attend the proceedings.

5.This Court has carefully considered the submission made on either side.

6. This Court is of the considered view, that there are no materials to show that the petitioner faced any life threat from the respondent or her family members. That apart, in view of the specific undertaking given by the learned counsel for the respondent, the apprehension raised by the petitioner falls to ground.

7.In the facts and circumstances of this case, this Court does not want to transfer the proceedings at this stage. The first petitioner shall appear before Court below during all hearings and the second petitioner and third respondent shall be represented by a counsel. They will be present before the Court below only when the Court below requires their personal appearance.

8.These Criminal Original Petitions are disposed of with a direction to the learned Judicial Magistrate, Gudiyattam, to dispose of D.V.C. No.5 of 2017 within a period of two months from the date of receipt of a copy of this order.

s/d-  
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

vsg1/ia

To

1.The learned Judicial Magistrate,  
Gudiyattam.

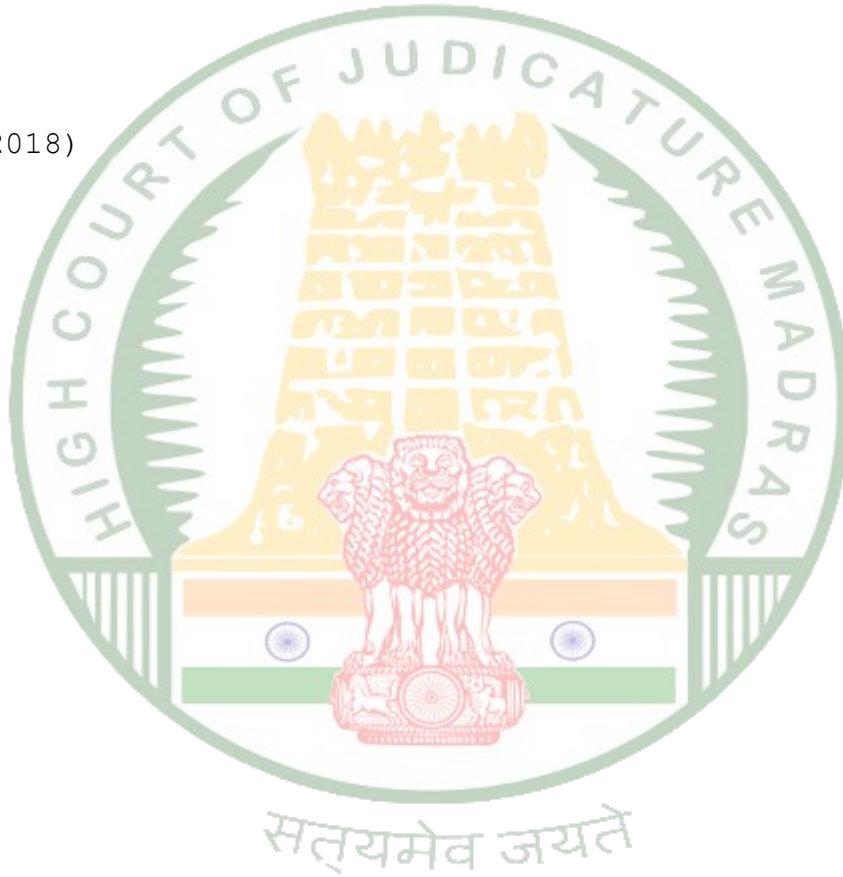
2.The Public Prosecutor,  
High Court, Madras.

+1 CC to Mr.B.Gurunathan, Advocate sr 79405.

+2 Ccs to M/s.T.Dharani, Advocate sr 79630

CrI.O.P.Nos.8764 of 2017 and 2095 of 2018

BS (CO)  
SP (21/12/2018)



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