

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2018

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos. 13191 of 2017 & 4198 of 2018
and
Crl.M.P.Nos.8571 & 8572 of 2017 and 1935 of 2018

1.Annamalai Arumugam
2.A.R.Annamalai
3.A.N.Santha

... Petitioners in
Crl.O.P.No.13191 of 2017

1.AR.Annamalai
2.AN.Santha

... Petitioners in
Crl.O.P.No.4198 of 2018

Vs

Nishi

...Respondent in both
Crl.O.Ps.

Prayer in Crl.O.P.No.13191 of 2017: Criminal Original Petition filed under Section 482 Cr.P.C. to withdraw the M.C.No.47 of 2017 on the file of the learned XVII Metropolitan Magistrate, Saidapet, Chennai and transfer the same to the learned I Additional Family Court, Chennai for joint trial with the O.P.No.2148 of 2017.

Prayer in Crl.O.P.No.4198 of 2018: Criminal Original Petition filed under Section 482 Cr.P.C. to quash the proceedings in the above DVC No.47 of 2017 on the file of the learned XVII Metropolitan Magistrate, Saidapet, as against the petitioners herein.

For Petitioners : Ms.R.S.Akila in both Crl.O.Ps

For Respondent : Mr.Ramesh, Senior Counsel
for Ms.Auxiliapeter
in both Crl.O.Ps

O R D E R

Crl.O.P.No.13191 of 2017 has been filed seeking for transferring the petition pending on the file of the learned XVII Metropolitan Magistrate, Saidapet, Chennai to the file of the learned I Additional Family Court, Chennai.

2. This petition has been filed on the ground that the Original Petition No.2148 of 2017 filed by the first petitioner seeking for restitution of conjugal rights is pending before the Family Court and therefore, this petition can also to be transferred to the same Court. That apart the petition filed by the respondent for declaring the marriage as nullity is also pending before the same Family Court. Therefore, the learned counsel for the petitioner would submit that the proceedings under the Domestic Violence Act can also to be transferred before the Family Court.

3. This Court is not inclined to transfer the proceedings, since, all the proceedings are pending in Chennai. Even if, the domestic violence petition is transferred to the Family Court, the same cannot be tried to jointly with the pending petitions, since, the cause of action is completely different in the domestic violence petition and the scope of enquiry is also different. It is a fact that the domestic violence petition is only pending before the Metropolitan Magistrate Court, Chennai. Therefore, there is no necessity for transferring the proceedings before the Family Court, since, it will cause unnecessary delay to the entire proceedings. Therefore, this Court is not inclined to transfer the proceedings pending in DVC.No.47 of 2017 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai.

4. Insofar as, the Crl.O.P.No.4198 of 2018 is concerned, the petitioners are the second and third respondents in the domestic violence petition and they are the father-in-law and mother-in-law of the respondent. The learned counsel for the petitioners would submit that there are absolutely no allegations against the petitioners and there was no need to add them as parties in the petition filed by the respondent. The learned counsel would further submit that even in the petition, it has been specifically stated that the respondent and her husband staying in the in-laws place only till 13.07.2016 and thereafter, they had shifted to a rental house at Perungudi. Therefore, the learned counsel would submit that without domestic shared household, these petitioners could not have been added as parties in the petition.

5. The learned senior counsel appearing on behalf of the respondent would submit that necessary allegations has been made against these petitioners in the petition and relief has also been sought for against these petitioners. Therefore, all the grounds that are raised by the learned counsel for the petitioners being factual in nature, should be raised only before the Court below during the course of the proceedings. The learned senior counsel would further submit that this Court should not interfere with the proceedings at this stage.

6. This Court has carefully considered the submissions made on the either side. It is seen from the petition that certain allegations have been made against these petitioners. According to the learned counsel for the petitioner, there is no domestic relationship qua, these petitioners with the respondent, since, there is no shared household even admittedly as per the averments made in the complaint. The definition of domestic violence is dealt with under Section 3 of the Act. The definition is so wide that any Act, omission, commission or contact of the respondent, if it constitutes a domestic violence under Section 3 of the Act, the same will be a ground for the wife to file a petition against all those persons who committed the domestic violence. For this purpose, it is not necessary that the persons who committed the domestic violence must also fulfill the criteria of the domestic relationship.

7. This Court is not inclined to interfere with the proceedings at this stage. It is left open to the petitioners to raise all the grounds before the Court below and the Court below shall consider the same on its own merits and in accordance with law. Considering the age of the petitioners, the presence of the petitioners is dispensed with and they shall be represented by a counsel before the Court below.

8. In the result, Crl.O.P.No.13191 of 2017 shall stand dismissed and Crl.O.P.No.4198 of 2018 shall stand disposed of with a direction to the XVII Metropolitan Magistrate, Saidapet, Chennai, to complete the proceedings in DVC No.47 of 2017, within a period of two months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

To

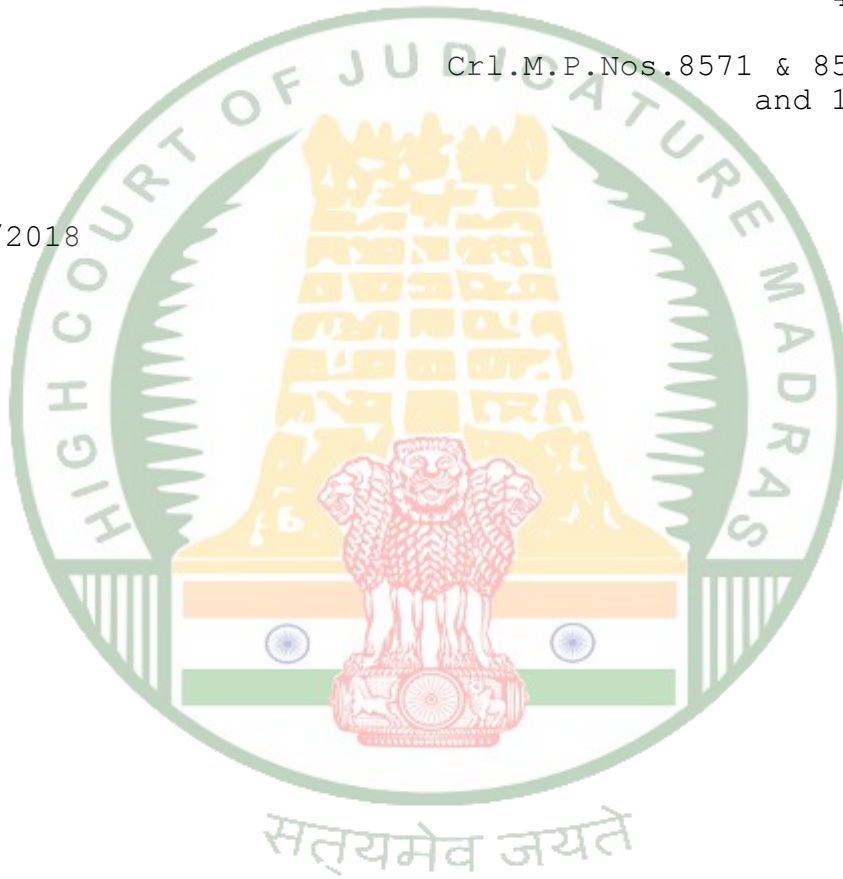
The XVII Metropolitan Magistrate,
Saidapet,
Chennai.

+lcc to Mr.Auxilia Peter, Advocate Sr.79507 [20/12/2018]

Crl.O.P.Nos. 13191 of 2017 &
4198 of 2018
and

Crl.M.P.Nos.8571 & 8572 of 2017
and 1935 of 2018

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