



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE P. RAJAMANICKAM

Crl.O.P.(MD) No.1512 of 2018

Lingathai

... Petitioner

-Vs-

1.Solaiappan
2.Muthammal
3.Muthumari
4.Solaimuthu

... Respondents

Prayer: This Criminal Original petition is filed under Section 482 of Code of Criminal Procedure, to set aside the return order dated 22.08.2017 passed in Un-numbered DVOP.No. Nil of 2017 on the file of the learned Judicial Magistrate, Vilathikulam, Thoothukudi District and consequently, direct the learned Judicial Magistrate, Vilathikulam, Thoothukudi District to take the petitioner's application under Section 12 of Protection of Women From Domestic Violence Act, 2005, on file.

For Petitioner : Mr.A. Thiruvadikumar

ORDER

This petition has been filed to set aside the return order dated 22.08.2017 passed in Unnumbered DVOP.No. Nil of 2017, on the file of the learned Judicial Magistrate, Vilathikulam, Thoothukudi District and consequently, direct the said Magistrate to take the petitioner's application under Section 12 of the Protection of Women From Domestic Violence Act, 2005, on his file.

2. The learned counsel appearing for the petitioner has submitted that the petitioner herein has filed an application under Section 12 of the Protection of Women From Domestic Violence Act, 2005, (herein after referred as "Act") before the learned Judicial Magistrate, Vilathikulam, on 11.08.2017. He further submitted that the said Magistrate has returned the said application by his order dated 18.08.2017, directing the petitioner to produce the marriage proof. He further submitted that the petitioner has represented the said application on 19.08.2017, referring to Section 2(f) of the aforesaid "Act" and as per the said provision, the petitioner need not be a wife and



even a woman who has lived together in a shared household is also entitled to file an application under the said Act and even thereafter, the learned Judicial Magistrate has returned the said application directing the petitioner to produce the marriage proof. He further submitted that as per the Section 2(f) of the aforesaid Act, the aggrieved person need not be a wife and even a woman who lived together with the respondent in a shared household is also entitled to file an application under the said "Act" and hence, he requests the Court to set aside the order passed by the learned Judicial Magistrate and direct him to take the aforesaid application on file and dispose of the same in accordance with law.

3. Heard the learned counsel appearing for the petitioner.

4. As per the section 12 of the "Act", the aggrieved person is entitled to file an application seeking reliefs under the said "Act". Aggrieved person is defined under Section 2(a) of the "Act" as any woman who is, or has been, in domestic relationship with the respondent and who alleged to have been subjected to any act of domestic violence by the respondent and Section 2(f) of the "Act" defines domestic relationship as per the said definition, domestic relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as joint family. Therefore, for filing an application under Section 12 of the "Act", aggrieved person need not be a wife. Even a woman who has lived together with the respondent in a shared household is entitled to file an application under the said Act. Therefore, the impugned order dated 22.08.2017, passed by the learned Judicial Magistrate, Vilathikulam, Thoothukudi District, is set aside.

5. In the result, the Criminal Original Petition is allowed. The Judicial Magistrate, Vilathikulam, Thoothukudi District, is directed to take the application on file and dispose of the same in accordance with law.

6. The Registry is directed to return the original application which was filed by the petitioner under Section 12 of the "Act" to the petitioner to enable her to represent the same before the Judicial Magistrate, Vilathikulam.

Sd/-

Assistant Registrar(T&P)

/True Copy/



The Judicial Magistrate,
Vilathikulam, Thoothukudi District.

Copy to:

The Section Officer,
ER Section,
Madurai Bench of Madras High Court, Madurai.

+ 1 cc TO Mr.A.Thiruvadikumar , Advocate in SR No. 45634

trp

AE/SKN RSK/SAR3/20.02.2018/3P/4C

Crl.O.P. (MD) No.1512 of 2018
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